

Intro. Res. No. 1575-2014
Introduced by Presiding Officer, on request of the County Executive

Laid on Table 6/3/2014

RESOLUTION NO. 579 -2014, ADOPTING LOCAL LAW NO. 31 -2014, A CHARTER LAW AMENDING THE ¼% SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (DWPP) FOR ENHANCED WATER QUALITY PROTECTION, WASTEWATER INFRASTRUCTURE AND GENERAL FUND PROPERTY TAX RELIEF FOR SUFFOLK COUNTY

WHEREAS, there was duly presented and introduced to this County Legislature at a meeting held on June 3, 2014 a proposed local law entitled, "**A CHARTER LAW AMENDING THE ¼% SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (DWPP) FOR ENHANCED WATER QUALITY PROTECTION, WASTEWATER INFRASTRUCTURE AND GENERAL FUND PROPERTY TAX RELIEF FOR SUFFOLK COUNTY;**" now, therefore be it

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

LOCAL LAW NO. 31 -2014, SUFFOLK COUNTY, NEW YORK

A CHARTER LAW AMENDING THE ¼% SUFFOLK COUNTY DRINKING WATER PROTECTION PROGRAM (DWPP) FOR ENHANCED WATER QUALITY PROTECTION, WASTEWATER INFRASTRUCTURE AND GENERAL FUND PROPERTY TAX RELIEF FOR SUFFOLK COUNTY

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

Section 1. Legislative Intent.

This Legislature finds and determines that Local Law No. 24-2007, a charter law extending and accelerating the Suffolk County 1/4% Drinking Water Protection Program for environmental protection known as the Suffolk County Drinking Water Protection Program, was adopted by the County and approved by the voters of Suffolk County.

This Legislature also determines that the Sewer Assessment Stabilization Reserve Fund (hereinafter referred to as "Assessment Stabilization Reserve Fund" or "Reserve Fund") is a component of the Drinking Water Protection Program. A large fund balance in the Assessment Stabilization Reserve Fund (Charter § C12-2[D]) prompted the Legislature to adopt Local Law No. 44-2011 without voter approval to authorize the use of excess monies in the Reserve Fund for sewer infrastructure and sewage treatment plants, the installation of enhanced nitrogen removal septic systems throughout Suffolk County, and to provide general property tax relief.

This Legislature also determines that the Drinking Water Protection Program is essential to the well-being of the County's drinking water supply, and it is in the best interest of the County's residents to preserve the sanctity of the Program to secure significant environmental and public health benefits.

This Legislature also determines that approximately \$29,400,000 was utilized pursuant to Local Law No. 44-2011 for general property tax relief via payments made to the County's bonded indebtedness reserve fund and/or the retirement contribution reserve fund.

This Legislature also determines that an enhanced water quality protection program of \$29,400,000 for projects throughout the County is critical to the well-being and quality of life of the residents of this County. It will utilize an amount of money otherwise slated for the Assessment Stabilization Reserve Fund balance to fund programs with significant environmental and public health benefits intended by the Drinking Water Protection Program. For this reason, the County will authorize, issue, appropriate and expend \$29,400,000 in serial bonds.

This Legislature also determines that Local Law No. 44-2011 has a 2013 sunset provision for the use of the Assessment Stabilization Reserve Fund (defined herein below at § C12-2[D]) balance for property tax relief, but that the County should still have as many tools at its disposal as possible to battle fiscal emergencies. The County, therefore, should allow itself the option of utilizing the excess balance in the Reserve Fund, via appropriate resolution, should the need arise to provide short-term County property tax relief beyond 2013 to Fiscal Year 2017.

This Legislature also determines that if any Reserve Fund balance is utilized for property tax relief, the County should obligate itself in the recommended and adopted mandated portion of the operating budget to return such sums used to the Reserve Fund via a specific budget line commencing in 2018.

This Legislature also determines it is in the best interests of the residents of this County to have general property tax relief, reduce nitrogen pollution in groundwater and to protect the County's aquifer and wetlands.

Therefore, the purpose of this Charter law is to accomplish these goals by:

- 1.) authorizing an extension of the sunset period to 2017 on the County's ability to continue to provide general property tax relief with the excess Reserve Fund balance;
- 2.) mandating a budget line in the recommended and adopted operating budget to restore monies transferred from the Reserve Fund in 2014, 2015, 2016 and 2017 commencing in 2018;
- 3.) continuing the funding for sewer infrastructure, sewage treatment plants, and the installation of enhanced nitrogen removal septic systems throughout Suffolk County; and
- 4.) by creating a new 2014 Enhanced Suffolk County Water Quality Protection Program funded via the issuance of \$29,400,000 of serial bonds to acquire by fee, lease or easement interests in land for environmental restoration and protection projects, or to

acquire by fee, lease or easement interests in land to protect and/or enhance groundwater.

Section 2. Amendments.

I. Article IV of the SUFFOLK COUNTY CHARTER is hereby amended by adding new subdivisions (L) and (M) to section C4-6 as follows:

Article IV
County Budget and Capital Program

§ C4-6. Submission of proposed budget by County Executive.

L.) Commencing in Fiscal Year 2018 and continuing in subsequent fiscal years to no later than Fiscal Year 2029, the proposed expense budget shall include in the budget document required by Subsection A(1) of this section an interfund transfer from the County's general fund to the Suffolk County Sewer Assessment Stabilization Fund in such sum deemed reasonably prudent to return to the Assessment Stabilization Reserve Fund payments that had been allocated pursuant to §§ C12-2 (D)(2)(a) or C12-2 (D)(2)(b) in Fiscal Years 2014, 2015, 2016 and 2017. The sum to be transferred annually shall at the time of the transfer be equal to at least five percent of the outstanding balance of the payments that had been allocated pursuant to §§ C12-2 (D)(2)(a) or C12-2 (D)(2)(b) in Fiscal Years 2014, 2015, 2016 and 2017, with all outstanding balances to be paid by December 31, 2029. The County Comptroller shall set aside from County general revenue the amount necessary to fund the interfund transfer.

M.) With respect to the annual "outstanding balance" referred to in subdivision L, the calculation of outstanding balance shall be confirmed in writing, jointly certified by the Legislative Office of Budget Review and the Executive Budget Office, as part of the consensus forecast required by Charter § C4-5 and Administrative Code § A4-3(E).

II. Article IV of the SUFFOLK COUNTY CHARTER is hereby amended by adding new subdivisions (L) and (M) to section C4-10 as follows:

Article IV
County Budget and Capital Program

§ C4-10. Action by County Legislature on proposed budget.

L.) Commencing in Fiscal Year 2018 and continuing in subsequent fiscal years to no later than Fiscal Year 2029, the adopted budget shall include in the budget

document required by Subsection A(1) of this section an interfund transfer from the County's general fund to the Suffolk County Sewer Assessment Stabilization Fund in such sum deemed reasonably prudent to return to the Assessment Stabilization Reserve Fund payments that had been allocated pursuant to §§ C12-2 (D)(2)(a) or C12-2 (D)(2)(b) in Fiscal Years 2014, 2015, 2016 and 2017. The sum to be transferred annually shall at the time of the transfer be equal to at least five percent of the outstanding balance of the payments that had been allocated pursuant to §§ C12-2 (D)(2)(a) or C12-2 (D)(2)(b) in Fiscal Years 2014, 2015, 2016 and 2017, with all outstanding balances to be paid by December 31, 2029. The County Comptroller shall set aside from County general revenue the amount necessary to fund the interfund transfer.

M.) With respect to the annual "outstanding balance" referred to in subdivision L, the calculation of outstanding balance shall be confirmed in writing, jointly certified by the Legislative Office of Budget Review and the Executive Budget Office, as part of the consensus forecast required by Charter § C4-5 and Administrative Code § A4-3(E).

III. Article XII of the Suffolk County Charter is hereby amended to read as follows:

ARTICLE XII
Suffolk County Drinking Water Protection Program

§ C12-2. Programmatic expenses.

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] Assessment Stabilization Reserve Fund Balance 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, or in any subsequent fiscal year through Fiscal Year 2021.] , subject to the provisions of paragraphs (1), (2), (3) and (4) of this subdivision (D). For purposes of this subdivision, the phrase "excess Assessment Stabilization Reserve Fund Balance" means balances greater than needed 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. With respect to the excess Assessment Stabilization Reserve Fund referred to in this paragraph (D), the calculation of the excess balance, if any, shall be confirmed in writing, jointly certified by the Legislative Office of Budget Review and the Executive Budget Office, as part of the consensus forecast required by Charter § C4-5 and Administrative Code Section A4-3(E).

* * * *

2.) In [the event such fund balance exceeds \$140 million in] Fiscal Year 2014 or in any subsequent fiscal year through 2021, the excess [fund balance] Assessment Stabilization Reserve Fund Balance [shall] may be used [exclusively,] via duly approved resolutions of the County of Suffolk, [for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced nitrogen removal septic systems. These monies may be used for projects outside the boundaries of County sewer districts.] as follows:

a.) for payment to a reserve fund for bonded indebtedness established pursuant to Section 6-h of the General Municipal Law or such successor fund; or

b.) payment to a retirement contribution reserve fund established pursuant to Section 6-r of the General Municipal Law or such successor fund, however, no payment shall be made pursuant to subparagraph (a) or (b) after Fiscal Year 2017 or if the fund balance is not sufficient for the annual appropriation of revenues needed for sewer district tax rate stabilization as set forth in Charter § 12-2(D); and

c.) for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced nitrogen removal septic systems. These monies may be used for projects outside the boundaries of County sewer districts.

3.) In [the event such fund balance exceeds \$140 million in] fiscal year 2011 or in any subsequent fiscal year through 2021, no less than \$2 million will be appropriated via duly approved resolutions in [those] each fiscal year[s] 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.

* * * *

IV. A new Article XIII A is added the Suffolk County Charter to read as follows:

ARTICLE XIII A
2014 Enhanced
Suffolk County Water Quality Protection Program

§ C12A-1. 2014 Enhanced Water Quality Program.

An enhanced Suffolk County Water Quality Protection Program (hereinafter the enhanced program) designed to provide funding for the purpose of protecting groundwater in Suffolk County's sole source aquifer from discharges of pollutants is hereby established beginning on December 1, 2014, and ending on December 31, 2020. The purpose of the enhanced program is to acquire, by fee, lease or easement, interests in land to protect and/or enhance groundwater, for water quality protection and restoration program and land stewardship initiatives, and for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced nitrogen removal septic systems.

§ C12A-2. Programmatic components.

A.) In addition to, but separate and apart from the ¼ % sales and compensating use tax proceeds generated under Article XII of the Suffolk County Charter, and separate and apart from the criteria set forth for specific environmental protection, water quality protection and restoration program and land stewardship initiatives and sewer taxpayer protection paid for from such sales and compensating use tax proceeds, either directly or indirectly, the County Executive, County Legislature and County Comptroller are hereby authorized, empowered and directed, regardless of any intervening circumstances, to authorize, issue, appropriate and expend \$29,400,000 in serial bonds of the County of Suffolk, via duly enacted resolutions of the County of Suffolk, pursuant to §11.00 of the New York Local Finance Law to acquire, by fee, lease or easement, interests in land to protect and/or enhance groundwater, for water quality protection and restoration program and land stewardship initiatives, and for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced nitrogen removal septic systems that prevents water degradation or remediates degraded water quality.

B.) The full amount of \$29,400,000 in serial bonds contemplated by this Article shall be proposed in the 2016-2018 recommended capital budget and program submitted to the County Legislature by the County Executive on April 15, 2015, the full amount of \$29,400,000 in serial bonds contemplated by this Article shall be adopted by the County of Suffolk, regardless of any intervening circumstances, in the 2016-18 Capital Budget and Program no later than December 31, 2015. The amount of \$29,400,000 in serial bonds shall be fully appropriated in 2016 and issued and expended by the County, regardless of any intervening circumstances, via duly enacted resolutions and administrative actions of the County of Suffolk, no later than December 31, 2020 according to the following formula:

- 1.) Twenty million dollars (\$20,000,000) to be used to acquire, by fee, lease or easement, interests in land as set forth in § 12-2(A)(1)(a)-(e);
- 2.) Four million seven hundred thousand dollars (\$4,700,000) to be used solely for water quality protection and restoration program and land

stewardship initiatives projects as set forth in § C12-2(B), exclusive of Suffolk County personnel costs; and

3.) Four million seven hundred thousand dollars (\$4,700,000) to be used for installation, improvements, maintenance and operation of sewer infrastructure and sewage treatment plants and for the installation of residential and commercial enhanced nitrogen removal septic systems as set forth in § 12-2(D)(2)(c) that remediates degraded water quality.

§ C12A-3. Management.

The management, administration and day-to-day supervision of the enhanced program shall be provided by the Division of Planning and Environment and Division of Real Property Acquisition and Management in the Department of Economic Development and Planning which Division shall be responsible for maintaining the official records of land acquisitions consummated. The Budget Office shall maintain the official records of money expended pursuant to the funding components of the enhanced program.

Section 3. Applicability.

This local law shall apply to all budgetary actions approved for, or occurring during any fiscal year beginning with January 1, 2014 and in all subsequent fiscal years.

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) and (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 it has been approved by the affirmative vote of a majority of the qualified electors of the County of Suffolk voting upon a proposition for its

approval in conformity with the provisions of Section 34 of the NEW YORK MUNICIPAL HOME RULE LAW and has been filed in the Office of the Secretary of State.

Section 7. Form of Proposition.

The proposition to be submitted at the next general election, shall be in the following form:

Resolution No. -2014 A Charter Law
Amending the ¼% Suffolk County Drinking Water
Protection Program (DWPP) For Enhanced Water
Quality Protection, Wastewater Infrastructure And
General Property Fund Tax Relief For Suffolk
County

Resolution No. -2014, is a Charter Law that:

i. extends the sunset period found in Local Law No. 44-2011 from 2013 to 2017 to allow the use of the excess Assessment Stabilization Reserve Fund balance for deposits to reserve funds for the payment of County bonds or retirement contributions to provide general property tax relief;

ii. mandates, commencing in County Fiscal Year 2018 and continuing through Fiscal Year 2029, the restoration of funds allocated from the Assessment Stabilization Reserve Fund in 2014, 2015, 2016 and 2017;

iii. allows the use of excess Assessment Stabilization Reserve Fund Balances to fund sewer infrastructure, sewage treatment plants, and the installation of enhanced nitrogen removal septic systems throughout Suffolk County;

iv. authorizes the County to issue \$29.4 million in serial bonds for a 2014 Enhanced Suffolk County Water Quality Protection Program.

The phrase ‘excess Assessment Stabilization Reserve Fund Balance’ means balances in the sewer rate stabilization component of the DWPP greater than needed 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.

Shall Resolution No. -2014 be approved?

Section 8. Conflicting Referenda.

In the event that there are other referenda on the ballot, pertaining to or addressing substantially the same issues as are contained in this law, then the provisions of the measure approved by the electorate receiving the greatest number of affirmative votes, shall prevail, and the alternative measure, or measures, as the case may be, shall be deemed null and void.

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

DATED: July 29, 2014

APPROVED BY:

/s/ Steven Bellone
County Executive of Suffolk County

Date: August 12, 2014

After a public hearing duly held on August 11, 2014
Filed with the Secretary of State on December 10, 2014