



THOMAS P. DiNAPOLI
COMPTROLLER

STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER
110 STATE STREET
ALBANY, NEW YORK 12236

STEVEN J. HANCOX
DEPUTY COMPTROLLER
DIVISION OF LOCAL GOVERNMENT
AND SCHOOL ACCOUNTABILITY
Tel: (518) 474-4037 Fax: (518) 486-6479

December 2009

Dear Local Government Official:

Please find attached a listing of the average estimated cost thresholds for your use in determining whether approval of the State Comptroller is necessary for certain special district actions in the year 2010.

Certain "low cost" special districts, i.e., those which are at or below average estimated cost thresholds contained in the enclosure, do NOT require approval of the State Comptroller. However, unless no debt is being issued, a certified copy of the notice of hearing for the "low cost" district must be sent to our office. This copy must be sent, on or about the date of publication, to the Office of the State Comptroller, Division of Legal Services, 110 State Street, 14th Floor, Albany, New York 12236. It should be sent no later than 14 calendar days after publication. This notice enables us to accurately calculate future average estimated cost thresholds.

In addition, certified copies of resolutions or orders which, among other things, finally establish or extend a district, and in the case of counties, authorize an increase and improvement of facilities, are required to be filed with this Office regardless of whether the Comptroller's approval is required. Resolutions or orders that are subject to permissive referendum should not be filed until the period for filing a petition has passed, or if a petition is filed, a referendum has been held.

We would be happy to provide advisory services and assist you in identifying and resolving issues in connection with special district actions, even if the proceedings are not subject to our approval. You can obtain additional information and guidelines on submitting applications by contacting our office. The information in this letter, as well as the Comptroller's regulations relating to applications for permission of the Comptroller to establish or extend special districts (Part 85), can also be found on our website:

<http://www.osc.state.ny.us/localgov/datanstat/files/part85regs.pdf>

If you have questions or need more information, please contact Ellen McDonald in our Division of Legal Services at (518) 474-3517 or Scott Waldorf in our Division of Local Government and School Accountability at (518) 473-1198.

Sincerely,

Steven J. Hancox
Deputy Comptroller
Division of Local Government
and School Accountability

Enc.

**AVERAGE ESTIMATED COSTS FOR COUNTY AND TOWN SPECIAL
IMPROVEMENT DISTRICTS
(EFFECTIVE FOR PROCEEDINGS FOR WHICH A NOTICE OF HEARING IS PUBLISHED
FROM JANUARY 1, 2010 THROUGH DECEMBER 31, 2010)**

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 listed below¹.

Costs include debt service, operation and maintenance, including user fees, and other charges related to the improvement in the first year following formation of the district or extension, or the increase and improvement of facilities in counties (or, if greater, the first year in which both principal and interest and operation and maintenance will be paid). To ensure accurate calculations of estimated costs, towns and counties should not assume the receipt of federal or state aid in the absence of firm commitments from the appropriate agency. In addition, estimated borrowing costs should be based on the proposed maturity of the obligations and interest rate assumptions derived from market surveys or a letter of commitment. Charges imposed by other governmental entities, such as public authorities or other municipalities, should also be included in the computation. Costs, for this purpose, do not include hook-up fees.

A summary of the notice of hearing requirements for the establishment and extension of town special districts appear in Appendix A.

TOWN DISTRICTS

The following average estimated costs apply to town special district establishments, extensions, or increases in the maximum amount to be expended².

Sewer	\$ 886
Water	\$ 677

¹For those proceedings that are subject to a permissive referendum requirement, the Comptroller's Office will accept the filing of an application prior to the expiration of the time for filing a petition requesting a referendum, or if a petition is filed, the vote on the proposition. However, no approval order will be granted until after the completion of all such requirements.

²Chapter 456 of the Laws of 2004 amended Town Law §§202-d and 209-h, with respect to proceedings pursuant to Articles 12 and 12-A of the Town Law that authorize an increase in the maximum amount to be expended for the improvement in a district. Under the amendment, the Comptroller's approval, if required, may be given only after a public hearing and, in the case of Article 12-A districts, permissive referendum requirements are met. Prior to the amendment, the public hearing and permissive referendum procedures were undertaken after the Comptroller's approval.

COUNTY DISTRICTS

The following average estimated cost applies to county special district establishments, extensions or increases in the maximum amount to be expended.

Sewer	\$ 285
Water	\$ 3

The following average estimated cost applies to county special district increases and improvements of facilities. Please note that this figure represents only the increased cost to the typical property as a result of the increase and improvement.

Sewer	\$ 18
Water	\$ 4

OTHER DISTRICTS

For all other types of districts, there was insufficient data to calculate meaningful average estimated costs. Therefore, any type of district not listed above will be subject to applicable requirements for obtaining the Comptroller's approval, irrespective of the cost to the typical property or home, if debt is proposed to be issued to finance the improvement.

Note that proceedings under Town Law § 202-b to, among other things, repair, improve, or replace facilities within an existing town district do not require the Comptroller's consent, except in certain cases within the Adirondack Park (see Town Law § 202-b[5] and Local Finance Law § 104.10[3]).

APPENDIX A

Notice of Hearing Requirements for Establishment or Extension of Town Special Districts

Articles 12 (§ 190 et seq.) and 12-A (§ 209 et seq.) of the Town Law set forth two methods for establishing or extending a town improvement district: (1) by the submission to the town board of a valid petition requesting the establishment or extension of the district (Article 12) ³; and (2) by town board motion, subject to permissive referendum requirements (Article 12-A)⁴.

Under both of these methods, the town board is required to adopt a resolution calling for a public hearing on the proposal to establish or extend the district. The following is a summary of the requirements for a notice of hearing. For more specific information on the requirements, please consult Town Law § 193, for Article 12 districts, and Town Law § 209-d, for Article 12-A districts:

- Posting and Publishing. The notice of public hearing must be posted on the town signboard and published in the town's official newspaper not less than ten and not more than twenty days before the date designated for the public hearing. The notice may also be made available on the town's website, if any.
- Time and Place for Hearing. The notice must specify the time when and place where the board will meet to hear all interested persons and, in the case of an Article 12 proceeding, consider the petition.
- Other Key Information. The notice must include
 - a boundary description
 - a description of the proposed improvements
 - the maximum proposed to be expended for the improvement
 - the estimated cost of hook-up fees, if any
 - the "cost of the district or extension" to the "typical property" and, if different, to the "typical one or two family home"⁵
- Filing of Petition. In the case of an Article 12 proceeding, the notice must recite in general terms the filing of a petition.
- Proposed Method of Financing/Map, Plan and Report. In the case of an Article 12-A proceeding, the notice must state the proposed method of financing and the fact that a map, plan and report describing the improvements are on file in the town clerk's office for public inspection.
- Statement as to Benefit Assessments. In the case of an Article 12 proceeding for a water district and certain other types of districts, if it is intended to finance the proposed district on a benefit basis (rather than on an ad valorem basis), the petition must contain a statement to that effect. In the case of an Article 12-A proceeding for a water district, and certain other types of districts, if the town intends to finance the proposed district on a benefit basis (rather than on an ad valorem basis), the notice of hearing must contain a statement to that effect.
- Detailed Explanation of Costs. Prior to the publication of the notice, the board must cause to be prepared, and file for public inspection with the town clerk, a detailed explanation of the how the estimated cost of hook-up fees, if any, and the cost to the "typical property" and, if different, the "typical one or two family home," was computed.

For further information on the notice of hearing requirement, please contact Ellen McDonald of the State Comptroller's Division of Legal Services at 518-474-3517.

³The petition, among other requirements, must be signed by the proper number of owners of taxable real property in the proposed district or extension and, in the case of water, sewer, wastewater disposal and drainage districts, must be accompanied by an appropriate map, plan and report (see Town Law §§ 191, 191-a, 192).

⁴The establishment or extension of an improvement district under Article 12-A is based on a map, plan and report (see Town Law §§ 209-b, 209-c; see also Town Law § 209-e [3] and Article 7 of the Town Law [§ 90 et seq.], relating to permissive referendum requirements).

⁵The terms "typical property," "typical one or two family home," "cost of the district or extension to the typical property," and "cost of the district or extension to the typical one or two family home" are defined in Town Law §§ 193 (2) and 209-a.