

American Water Works
Association

New York Section



22 April 2022

Honorable Andrea Stewart-Cousins, President and Majority Leader
New York State Senate
Legislative Office Building, Room 907
Albany, NY 12247

Honorable Carl Heastie, Speaker
New York State Assembly
Legislative Office Building, Room 932
Albany, NY 12248

Dear Majority Leader Stewart-Cousins and Speaker Heastie,

Re: S3104/A4172 – “Excludes water district capital expenditures from the tax cap”

NYWEA, NYSAWWA, and NYRWA represent the professional organizations for clean water, drinking water, and rural water interests of the New York water sector. Together, we work with our 7,000 plus members to ensure that all New York State residents have access to safe, clean, affordable, and reliable water and wastewater services. All three organizations wish to comment on proposed Bill No. S3104/A4172 that “Excludes water district capital expenditures from the tax cap.” First – We applaud the Senate and Assembly sponsors, co-sponsors, and proponents of this bill for their recognition that critical capital investments in water systems should not be impeded by the current 2% tax cap. To enhance the bill’s goal of breaking down barriers for investment in critical water sector infrastructure, **we strongly suggest this proposed legislation be amended to specifically state local government sewer system capital expenditures shall be excluded from New York State tax cap calculations**, along with those exclusions already proposed for “water district” expenditures.

The U.S. Department of Homeland Security has designated the “water sector” as critical infrastructure because of the vital services provided to our communities. The definition of the water sector used by the Department of Homeland Security encompasses both drinking water and wastewater infrastructure. Therefore, we believe it is important to recognize local government sewer districts, as well as the already included water districts, in proposed Bill No. S3104/A4172.

As you know, every community in New York State is under pressure to upgrade and improve their water and wastewater infrastructure. The State has demonstrated historic leadership on this front – providing billions of dollars in critical infrastructure funding – and we thank you for this unprecedented funding commitment. The need for further investment, however, is enormous; exceeding more than \$75 billion to fully modernize New York’s aging water and wastewater systems. Much of the expense to upgrade and improve these assets falls to local water and sewer district ratepayers.

Presently, many charges related to capital investments in a community's water or wastewater systems are included within the municipality's tax cap calculation. We are of the opinion including these capital spending related charges within the tax cap calculation creates a disincentive for municipal leaders to invest in critical water and wastewater assets. It is a well-known reality in our field that deferring capital upgrades, due to lack of funding resources or fear of piercing the property tax cap, increases the long-term cost of regulatory compliance and providing these critical services.

No local elected leader should have to fear the political repercussions of piercing the property tax cap in order to invest capital dollars into improving their drinking water and wastewater infrastructure. Moreover, no local elected official should face political repercussions for simply advancing projects that will bring or insure continued compliance with the State's drinking water and wastewater standards or regulations.

When a community is working earnestly and in good faith to upgrade their critical drinking water and wastewater infrastructure, those capital investments and their responding rate impacts should not be included within a local government's property tax cap calculation. **We commend the intentions behind proposed Bill No. S3104/A4172 and seek your support to amend the bill language to specifically note local government sewer system capital expenditures are within the scope of the proposed tax cap exclusion.** Suggested edits (underlined for clarity) to effectuate our recommendations are provided below:

Section 1. Subparagraph (iv) of paragraph (g) of subdivision 2 of section 3-c of the general municipal law, as added by section 1 of part A of chapter 97 of the laws of 2011, is amended and a new subparagraph(v) is added to read as follows:

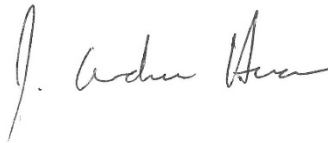
(V) A TAX LEVY NECESSARY TO FUND WATER AND/OR SEWER DISTRICT CAPITAL EXPENDITURES.

Thank you again for your leadership on key infrastructure issues and for your consideration on this matter. If you would like to discuss further, please reach out to the individuals noted below.

Sincerely,



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cc: The Honorable Fred Thiele, Assembly Local Governments Committee Chair
The Honorable James Gaughran, Senate Local Government Committee Chair
The Honorable Steven Englebright, Assembly Environmental Conservation Committee Chair
The Honorable Todd Kaminsky, Senate Environmental Conservation Committee Chair
The Honorable Charles Lavine, Assembly Sponsor
The Honorable Anna Kaplan, Senate Sponsor