



## Long Island Water Conference 2017 Legislative Agenda

### Overview:

A vast system of groundwater aquifers provides virtually all of the drinking water consumed on Long Island. More than 1,000 wells serve the area's community water supply systems, tapping one of the nation's most critical sole-source aquifers. Three major water-bearing segments provide 375 million gallons of water per day to Long Island residents and businesses.

The Long Island Water Conference (LIWC) is an alliance of 50 public and private drinking water purveyors and other industry professionals within Nassau and Suffolk Counties that supply potable water to more than three million people. The organization, founded 66 years ago, is dedicated to ensuring that a clean, safe and abundant water supply is maintained for all Long Islanders. Since its inception in 1951, the LIWC has been involved in all phases of water supply and management in Nassau and Suffolk. Members include large and small water suppliers, both public and private, all across Long Island. Together they serve approximately 90 percent of the bi-county area, which has a population greater than 20 states.

We would like to thank Governor Cuomo and our state legislators for committing funding to study our sole-source aquifer and conduct proactive replacement of aging critical water infrastructure.

The LIWC also appreciates the efforts of the Nassau and Suffolk County Legislatures for their continued support of the Long Island Commission for Aquifer Protection (LICAP) and commitment to bi-county cooperation for aquifer protection and management. Since it was established in 2014, LICAP has brought local water professionals and stakeholders together to develop a coordinated approach to managing groundwater issues and concerns facing Nassau and Suffolk. LICAP is off to a great start and must receive sufficient funding on an annual basis to provide further recommendations on issues concerning the sole-source aquifer, including saltwater intrusion, plume monitoring and water table levels. It is vital that the facts and science concerning our water supply be obtained and objectively considered when assessing the Long Island groundwater system.

**The Legislative Committee of the Long Island Water Conference has adopted the following positions for the consideration of our elected officials:**

### **1. Drinking Water Infrastructure Funding**

In New York State, 10,147 regulated water systems provide clean water to 20 million New York residents. On Long Island, more than 50 public and private water systems provide potable water to a population of more than three million people. Nearly 95 percent of New York's population receives water from the state's public water supply systems. Unfortunately, 95 percent of the submitted improvement projects to the Drinking Water State Revolving Fund program remain unfunded due to the overwhelming demand. The latest estimate for repairing, replacing, and updating statewide drinking water infrastructure add up to \$38.7 billion over 20 years. From frequent pipe breaks to large system upgrades to rebuilding from storm damage, our aging drinking water network has no shortage of challenges.

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Although the DWSRF program has been very successful in providing funding for approved water system improvement projects, the 95 percent rate of unfunded projects makes it clear that the financial need is significantly higher than the DWSRF alone can provide. Additional revenues are urgently needed. Drinking water regulations have increased significantly over the past 30 years, and such regulations apply to systems of every size and water source. As research technologies change and improve, additional regulations may be enacted as new potential health effects of various contaminants are discovered. The cost of complying with new and increasingly stringent regulations is a challenge that all water systems face.

The LIWC supports Governor Cuomo \$2 billion Clean Water Infrastructure Act of 2017 and the NYS Senate's introduction of a \$5 billion bond act for clean water infrastructure (Bill No, S03772A). Both acts will fund wastewater, storm water and drinking water infrastructure projects. Even though the funding does not completely address more than \$38 billion in drinking water funding needs, the bond act proposals are a step in the right direction.

Based on the enormous drinking water infrastructure needs, there needs to be a conduit for public water suppliers to obtain low interest financing through state agencies (such as the NYS Environmental Facilities Corporation) on a consistent basis to address aging infrastructure and water quality treatment for emerging contaminants. In addition, tax cap relief for capital expenditures related to infrastructure replacement and wellhead treatment will also help immeasurably. A revision to the 2011 Tax Cap law to allow local governments that own and operate a water system to exclude capital expenditures (including capital-related debt service) from the tax cap calculation would be required. This revision is needed so that critical water supply infrastructure can be upgraded/constructed without the consequences of exceeding the 2 percent tax cap. It should be noted that this exclusion currently applies to school districts and not to any other local governments.

**2. Provide adequate funding to the New York State Department of Environmental Conservation (NYSDEC) Region 1 Water Division and NYS Department of Health (NYSDOH) Bureau of Public Water Supply Protection**

We thank Governor Cuomo and the State Legislature for providing additional funding for the New York State Department of Environmental Conservation (NYSDEC) Region 1 Water Division during the last budget cycle. The heightened public awareness about unregulated contaminants and the threat such contaminants pose to the groundwater supply makes it very important to maintain needed funding to address spills and protect our vital groundwater resource.

However, funding needs to be expanded further to maintain WaterTraq, a regional, GIS-based water quality mapping system established by the Long Island Commission for Aquifer Protection (LICAP). WaterTraq is the first such system of its kind in New York State and provides a revolutionary way for public water providers and regulators to track potential threats in the water supply while also providing vital information to the public. There are currently more than 50 Nassau and Suffolk drinking water suppliers participating in WaterTraq. This information is available to the public 24 hours a day via [liaquifercommission.com](http://liaquifercommission.com). It is vital that LICAP's work continue and that WaterTraq is updated annually. For example, currently only 2015 data is available on WaterTraq. As to LICAP, its successes, to date, have been achieved using in-kind services provided by the employees of the Suffolk County Water

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Authority and Nassau County water providers. In order to continue, we are requesting New York State funding in the amount of \$700,000 to educate the public, secure dedicated hardware, contract with United States Geological Survey for scientific investigative reports, sample monitor wells and fund data entry costs.

While the NYSDEC has an important role in managing and protecting our groundwater resource, the New York State Department of Health (NYSDOH) Bureau of Public Water Supply Protection has an equally vital role in drinking water public health protection. Sufficient funding is needed to support the existing regulatory framework under Part 5 of the State Sanitary Code to address the health effects and regulatory limits for emerging compounds such as 1,4-dioxane and prefluorinated compounds (PFOAs). It is important to note that when sufficient funding and resources have been provided in the past, the NYSDOH was successful in establishing clear regulatory guidance for past emerging contaminants including Methyl tert-butyl ether (MTBE) and perchlorate.

We note that the NYS Senate has introduced a bill to create a water quality institute with water professionals, members of the public and state officials to advise the Department of Health on contamination levels in drinking water (Bill No. S03773). While we appreciate the efforts of the Senate and intention of the bill, we believe that it would be far more effective to provide funding to support the existing regulatory framework under Part 5 of the State Sanitary Code to address emerging contaminants.

We urge our legislators to make funding of these vitally important programs a priority for the upcoming state budget.

### **3. In Support of S.2683 Calling for the Regulation of 1,4 Dioxane**

S.2683 amends Public Health Law by adding new section 1100-B which directs the Commissioner of Health to conduct a comprehensive review of 1,4-dioxane and establish a maximum contaminant level (MCL) for the presence of this chemical in drinking water that protects public health. The LIWC supports this legislation with recommended amendments (see below), since the United States Environmental Protection Agency has not taken any action to regulate 1,4-dioxane nor does there appear to be any action upcoming in the foreseeable future. In general, it is preferable that the regulation of drinking water contaminants be undertaken at the federal level. However, the widespread detection of 1,4-dioxane in drinking water wells across Long Island requires a comprehensive review now, not later. It should be noted that the regulatory framework is in place under Part 5 of the State Sanitary code to perform health reviews and establish maximum contaminant/action levels, but it appears that the NYS Department of Health (NYSDOH) may not have the staffing/funding resources in place to conduct such a review.

We recommend that the proposed legislation be amended to provide sufficient funding for the NYSDOH for this purpose and to establish a reasonable timeframe for completing such a study. NYSDOH should also benchmark actions taken in other states such as California. Furthermore, the implementation of a MCL must provide a reasonable timeframe for wellhead treatment design, funding, regulatory approval and implementation.

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#### **4. Clarify the NYS Superfund Law to Financially Protect Public Water Ratepayers**

The Inactive Hazardous Waste Disposal Site (IHWDS) Program, created under the state Superfund Law, is the state's program for identifying, investigating and cleaning up sites where consequential amounts of hazardous waste may exist. These sites go through a process of investigation, evaluation, cleanup and monitoring that has several distinct stages. Unfortunately, public groundwater suppliers cannot be reimbursed for wellhead treatment costs until a supply well has been impacted. Planning, design, regulatory approval and construction take considerable time (from at least one to two years). Therefore, the planning and implementation process must begin immediately once a contamination threat is identified. Depending on the nature and magnitude of the contamination at any given site, wellhead treatment capital costs can range from \$2 million to \$4 million per well location. Financing large capital projects also takes time to obtain and is further complicated by the property tax cap. Therefore, obtaining reimbursement once a contamination threat is identified is critical and protective of the water ratepayer, who should not bear the cost of contamination cleanup.

We urge our state legislators to take prompt action to clarify the NYS Superfund law in this manner.

#### **5. Clarify the One Call Notification System Law**

Every operator of an underground facility, such as a water utility, is required by law (NYS General Business Law Section 760) to participate in a one-call notification system within the geographical jurisdiction or boundaries of which such underground facility is located. The law was established for the protection of underground facilities to assure public safety and prevent damage to public and private property. Article 36 of the law provides that the costs of operating the one-call notification system are to be paid by its members, with the exception of municipalities and authorities that operate underground facilities. There is a technical issue with the law that does not define special improvement districts as a municipality. Therefore, many municipally-owned water systems, such as water districts, are collectively being charged tens of thousands of dollars annually for improper one-call system charges. This cost is ultimately being paid by the water district taxpayer.

Currently the law does not define the term "municipality." Therefore, we propose that the definition be added as follows: "Municipality" means a city, a village, a county, a town and a special improvement district governed by a separate board of commissioners.

At this time, legislation must be introduced to clarify the law that will clarify the status of commissioner-elected water districts under the one-call statute and provide much needed taxpayer relief.

***For additional information concerning LIWC legislative issues, please contact our legislative committee co-chairs:***

Paul J. Granger, P.E.  
(516)767-0171  
e-mail: [pgranger@pwwd.org](mailto:pgranger@pwwd.org)

Robert Holzmacher P.E.  
(631) 234-2220 ext. 101  
e-mail: [bob@holzmacher.com](mailto:bob@holzmacher.com)

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