



Long Island Water Conference 2018 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 (DWSRF) 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 and 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 passage of the \$2.5 billion Clean Water Infrastructure Act of 2017 was greatly appreciated and a step in the right direction. However more funding is needed to address the \$38.7 billion need. Therefore, the LIWC **strongly supports S.3772B (Hannon) / A.5467A (Englebright)** that would enact the "clean water bond act of 2018" to authorize the creation of a five billion dollar state debt for water improvement, subject to the approval of the electorate. Even though the funding does not completely address over \$38 billion in drinking water funding needs, the bond act proposal is another step in the right direction.

We also have concerns with the administrative implementation of funding for the Clean Water Infrastructure Act, as the hard-monetary caps that are in place related to the amount an agency may be awarded over a rolling five-year period are inequitable in that they do not account for the relative size of a water supplier. In the interest of fairness to all New Yorkers, we ask that the Environmental Facilities Corporation make changes to cap calculations to give consideration for the number of customers, the size of the population served, and the overall impact that a supplier's current need has on its ability to provide water.

The LIWC also **strongly supports A5825 (Santabarbara) / S3775 (Amedore)** that would make an appropriation to the Environmental Facilities Corporation for the purposes of providing emergency municipal drinking water, wastewater and stormwater infrastructure grants for infrastructure projects where there is an imminent threat to the environment and/or the public health. This need has been clearly demonstrated by communities in upstate New York and Long Island that were recently impacted by prefluorinated compounds and other industrial related contamination.

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.

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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.

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 Governor's office increased spending budget for the Department of Environmental Conservation by \$100 million, an increase of 9 percent. It is unclear what level of financial support that the NYSDOH Bureau of Public Water Supply Protection will receive in the upcoming budget however we urge that sufficient funding be provided.

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

3. Monitoring Well Registration and Water Quality Data Sharing

The LIWC supports legislation that would require all monitoring wells to be registered with the NYSDEC. In addition, it is requested that water quality results from all monitoring wells also be transmitted to the area's local water provider(s). Implementing a simple communication process to relay this information will have a profound impact on transparency and will further protect the quality of our drinking water.

At present the NYSDEC does not require the registration of monitoring wells. Only water supply and injection wells require registration. The location, depth, screened interval, construction attributes, static water levels and water quality information from monitoring wells provides vital information that will allow water purveyors and regulatory agencies to be proactive with addressing drinking water quality and quantity concerns. Long Island derives its drinking water from a EPA designated Sole Source Aquifer. Therefore the requirement to register monitoring wells with the NYSDEC would be initially applied to NYSDEC Region 1 which covers Nassau and Suffolk Counties.

At this time legislation must be introduced.

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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:

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