

FOR IMMEDIATE RELEASE
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February 22, 2004

**FERRER, WEPRIN, QUEENS CIVICS SEEK ACT TO CURB HIGH
WATER AND SEWER RATES;
PRESS STATE SENATE TO APPROVE BILL**

Drum Major Institute President Fernando Ferrer and Assemblyman Mark Weprin today (Sunday, February 22, 2004) urged the State Senate to pass legislation to inject accountability in the setting of City water and sewer rates. At an 11:30 a.m. news conference in Hollis Hills, Queens, Ferrer called on City Hall to support the Weprin-sponsored measure, [A.03791](http://assembly.state.ny.us/leg/?bn=A03791&sh=t) (<http://assembly.state.ny.us/leg/?bn=A03791&sh=t>), originally introduced in 2001 at Ferrer's request (A.8496). Leaders of the Borough-wide Queens Civic Congress joined Ferrer and Assemblyman Weprin in support of this bill passed by the State Assembly for the third time on February 2 but stuck in the State Senate each time.

Assemblyman Weprin's bill would amend the New York State public authorities law (§1045-j) to require the New York City Water Board to set its rates "not less than thirty days after the adoption of the executive budget by the city."

Assemblyman Weprin stated, "The Water Board, set up by State Legislation in 1984, sets its rates prior to the Council's adoption of the budget. This results in the anomaly of the Water Board basing its rates on forecasts in April of each year and voting on rates in May before the Council's hearings on the Mayor's Proposed Executive Budget and the Council's subsequent adoption of the budget in June of each year."

Ferrer stated, "The Water Board's lack of accountability in setting its rates before New York City adopts its budget results in artificially high rates. The Board essentially sets rates to that would raise sufficient funds to cover the budget submitted by the City's Department of Environmental Protection to operate and maintain the City's water and sewer systems. Often, this has resulted in significant water and sewer rate increases." All revenue raised by the Water Board must go towards the cost of operating the City's water and sewer systems.

"If the Water Board were to set its rates after the Council adopts the budget, it would set rates based on the need to cover the cost of the programs approved by the Council in adopting the budget. The opportunity for actual, effective oversight creates greater incentives to economize, operate efficiently and expand water conservation efforts. This reform would allow the Council, during its executive budget review, to review the proposed rate structure, to induce efficiencies to avert rate increases, or at least keep hikes as modest as practicable in the current year."

"All New Yorkers view their water and sewer charges as a tax -- a hidden tax that cannot be deducted," stated Ferrer. "Regressive by its very nature, it affects the New Yorkers who least can afford it. The cumulative increase over the last two decades exceeds 240% -- over 400% since 1981 -- and the average annual bill exceeds \$450. I find the continued water and sewer rate increases unacceptable. New Yorkers want sound polices to mitigate expected future increases and call for accountability in setting water and sewer rates."

Queens Civic Congress President Sean Walsh stated, "The Queens Civic Congress fervently objects to the practice of setting rates before the City adopts its budget. Our [platform](#), found on our website, www.queensciviccongress.org, specifically calls for this reform legislation. It simply makes sense to empower the City Council to influence the rates set by the Water Board. It would create a greater incentive to economize and expand water conservation efforts. Also, it should encourage more New Yorkers to express their concerns about the City's water and sewer programs."

Ferrer, a member of the Coalition for Water Bill Justice, also supports efforts to change Water Board rules to allow ratepayers to seek adjustments for billing errors up to six years old – the same standard applied to public electric, gas and telephone utilities. Current rules limit adjustments to only two years. "Though publicly-owned, the Water Board operates as a utility and should provide consumers the same courtesies."

Concerned that unjustified rate increases harm those who can least afford it --- senior citizens and the disabled living on fixed incomes, Ferrer also urges support for his program, in legislation sponsored by Assemblywoman Ann Margaret Carrozza and Senator Guy Velella, to provide rate relief for seniors ([A.06495/S.111](#)).

Talking Points

1) Today I join Assemblyman Mark Weprin to urge the State Senate to pass legislation to inject accountability in the setting of City water and sewer rates. I also call on City Hall to support the Weprin-sponsored measure, [A.03791](#), originally introduced in 2001 at my request (A.8496). Leaders of the Borough-wide Queens Civic Congress, including their President, Sean Walsh, join us today in support of this bill passed by the State Assembly for the third time on February 2 but stuck in the State Senate each time.

2) Our bill would amend the New York State public authorities law (§1045-j) to require the New York City Water Board to set its rates "not less than thirty days after the adoption of the executive budget by the city."

3) (Quote assigned to Mark) The Water Board, set up by State Legislation in 1984, sets its rates prior to the Council's adoption of the budget. This results in the anomaly of the Water Board basing its rates on forecasts in April of each year and voting on rates in May before the Council's hearings on the Mayor's Proposed Executive Budget and the Council's subsequent adoption of the budget in June of each year.

4) The Water Board's lack of accountability in setting its rates before New York City adopts its budget results in artificially high rates. The Board essentially sets rates to that would raise sufficient funds to cover the budget submitted by the City's Department of Environmental Protection to operate and maintain the City's water and sewer systems. Often, this has resulted in significant water and sewer rate increases. All revenue raised by the Water Board must go towards the cost of operating the City's water and sewer systems.

5) If the Water Board were to set its rates after the Council adopts the budget, it would set rates based on the need to cover the cost of the programs approved by the Council in adopting the budget. The opportunity for actual, effective oversight creates greater incentives to economize, operate efficiently and expand water conservation efforts.

6) This reform would allow the Council, during its executive budget review, to review the proposed rate structure, to induce efficiencies to avert rate increases, or at least keep hikes as modest as practicable in the current year."

7) All New Yorkers view their water and sewer charges as a tax -- a hidden tax that cannot be deducted.

8) Regressive by its very nature, it affects the New Yorkers who least can afford it. The cumulative increase over the last two decades exceeds 240% - -over 400% since 1981 -- and the average annual bill exceeds \$450. I find the continued water and sewer rate increases unacceptable. New Yorkers want sound policies to mitigate expected future increases and call for accountability in setting water and sewer rates."

9) (Quote assigned to Sean) It simply makes sense to empower the City Council to influence the rates set by the Water Board. It would create a greater incentive to economize and expand water conservation efforts. Also, it should encourage more New Yorkers to express their concerns about the City's water and sewer programs."

10) As a member of the Coalition for Water Bill Justice, I also support efforts to change Water Board rules to allow ratepayers to seek adjustments for billing errors up to six years old – the same standard applied to public electric, gas and telephone utilities. Current rules limit adjustments to only two years. Though publicly-owned, the Water Board operates as a utility and should provide consumers the same courtesies.

11) I am also concerned that unjustified rate increases harm those who can least afford it --- senior citizens and the disabled living on fixed incomes. Thus, I also urge support for my program, in legislation sponsored by Assemblywoman Ann Margaret Carrozza and Senator Guy Velella, to provide rate relief for seniors ([A.06495/S.111](#)).

Talking Point on What Oversight Can Mean

It focuses political will on initiatives to keep costs down*Nothing in the 1997 Memorandum of Agreement (MOA) between the city, the state and watershed communities prohibiting the city from using condemnation to acquire land in the watershed, bars the state from stepping in for the City and acquiring these undeveloped lands in the Croton Watershed. The threat of state action should move intransigent owners to negotiate in good faith.

I urged the Governor, in letters written as Bronx Borough President in 2000 and 2001, to spearhead a new State effort to acquire undeveloped lands around the Kensico Reservoir to protect New York City's threatened watershed and our water supply over the long term.

Legislative Memorandum on the State Bill:

TITLE OF BILL: An act to amend the public authorities law, in relation to requiring the New York city water board to wait at least thirty days after the adoption of the New York city executive budget to establish the annual fees and charges for the use of the sewerage system and water system

SUMMARY OF SPECIFIC PROVISIONS:

Section 1 amends the public authorities law as amended by chapter 513 of the laws of 1984 by amending subdivision 1 of section 1045-j to require the New York city water board to sets its rates not less than thirty days after the adoption of the executive budget by the city.

Section 2 amends the public authorities law as amended by chapter 184 of the laws of 1997 by amending subdivision 9-a of section 1 045-j to require the New York city water board to hold its hearings prior to setting its rates after the city adopts an executive budget and bars the setting of annual water and sewer rates not less than thirty days after the adoption of the executive budget by the city.

JUSTIFICATION:

The water board, set up by chapter 513 of the laws of 1984, sets its rates prior to the council's adoption of the budget. This results in the anomaly of the water board basing its rates on forecasts in April of each year and voting on rates in May before the councils hearings on the mayor's Proposed executive budget anti the council's subsequent adoption of the budget in June of each year. As a result, the board tends to adopt, in effect artificially high, rates that would raise sufficient funds to cover the budget submitted by the city's department of Environmental Protection to operate and maintain the city's water and sewer systems. Often, this has resulted in significant water and sewer rate increases. All revenue raised by the water word must go towards the cost of operating the city's water and sewer systems. Any surplus that might accrue in any given year would either be applied to reduce rates or to fund additional water and sewer system needs.

If the water board were to Set its rates after the council adopts the budget, it would set rates based on the need to cover the cost of the programs approved by the council in adopting the budget. The opportunity for actual, effective oversight creates greater incentives to economize, operate efficiently and expand water conservation efforts. It would allow the council, during its executive budget review, to review the proposed rate structure, to induce efficiencies to avert rate increases, or at least keep hikes as modest as practicable.

Empowering the city council to influence the rates set by the water board will create a greater incentive to economize and expand water conservation efforts Also, the implementation of this measure should encourage more New Yorkers to express their concerns about the city's water and sewer programs. Water rates rose 148 percent between fiscal years 1986 and 1993, an average of 14 percent each year and roughly triple the rate of inflation. The typical bill for a single family home rose from \$142 to \$350 during that period. The cumulative increase through last year approaches 240 percent and the average bill exceeds \$450. Interested people could lobby the city council and the mayor during the budget adoption process with the full knowledge that the water board's rates would more closely reflect the city council's budget actions.

This should also make it easier for more New Yorkers to follow water issues and press for conservation, filtration avoidance and watershed protection

PRIOR LEGISLATIVE HISTORY: A8496 of 2002

FISCAL IMPLICATIONS:

This legislation anticipates greater oversight by the municipality that could result in efficiencies in the operation and administration of the sewerage and water systems. Any savings would be passed on to ratepayers in the form of lower charges.

EFFECTIVE DATE: Immediately

S T A T E O F N E W Y O R K

3791

2003-2004 Regular Sessions

I N A S S E M B L Y

February 10, 2003

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Cities

AN ACT to amend the public authorities law, in relation to requiring the New York city water board to wait at least thirty days after the adoption of the New York city executive budget to establish the annual fees and charges for the use of the sewerage system and water system

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 1045-j of the public authorities
2 law, as added by chapter 513 of the laws of 1984, is amended to read as
3 follows:
4 1. The water board shall establish, fix and revise, {from time to
5 time,} NOT LESS THAN THIRTY DAYS AFTER THE ADOPTION OF THE EXECUTIVE
6 BUDGET BY THE CITY, THE ANNUAL fees, rates, rents or other charges for
7 the use of, or services furnished, rendered or made available by, the
8 sewerage system or water system, or both, as the case may be, owned by
9 the water board pursuant to this title in such amount at least suffi-
10 cient at all times so as to provide funds in an amount sufficient
11 together with other revenues available to the board, if any, (i) to pay
12 to the authority, in accordance with any agreement with the authority,
13 an amount sufficient for the purpose of paying the principal of and the
14 interest on the outstanding notes or bonds of the authority as the same
15 shall become due and payable and maintaining or funding a capital or
16 debt service reserve fund therefor and, to the extent requested by the
17 city in, or annually pursuant to, the agreement to pay to the city, in
18 accordance with the agreement, an amount sufficient for the purpose of
19 paying the principal of and interest on general obligation bonds thereof
20 issued for or allocable to the water system or sewerage system or both,

21 as the case may be, as the same shall become due and payable, and to
22 maintain or fund reserves therefor, (ii) to pay to the city, in accord-
23 ance with the agreement, an amount sufficient for the purpose of paying

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
{ } is old law to be omitted.

LBD08534-01-3

A. 3791

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1 the costs of administering, maintaining, repairing and operating and the
2 cost of constructing capital improvements to the water system or sewer-
3 age system or both, as the case may be, (iii) to pay to the city in
4 accordance with the agreement entered into pursuant to section one thou-
5 sand forty-five-i of this title an amount sufficient for the purpose of
6 paying liabilities issued for or allocable to the water system or sewer-
7 age system or both, as the case may be, as the same shall become due and
8 payable, (iv) to meet any requirements of any agreement including
9 requirements relating to the establishment of reserves for renewal and
10 replacement and for uncollected charges and covenants respecting rates,
11 (v) to pay all other reasonable and necessary expenses of the authority
12 and the water board in relation thereto, and (vi) to the extent
13 requested by the city in or pursuant to the agreement, to pay or provide
14 for such other purposes or projects as such city considers appropriate
15 and in the public interest. Any surplus of funds remaining in the water
16 board after such payments have been made shall be returned to the city
17 for deposit in the general fund.

18 S 2. Subdivision 9-a of section 1045-j of the public authorities law,
19 as added by chapter 184 of the laws of 1997, is amended to read as
20 follows:

21 9-a. {The} AFTER THE CITY ADOPTS AN EXECUTIVE BUDGET, THE water board
22 shall hold public hearings, in each borough of the city of New York,
23 prior to promulgating or fixing {annual water and sewer rates for such
24 city} ITS ANNUAL FEES, RATES, RENTS OR OTHER CHARGES FOR THE USE OF, OR
25 SERVICES FURNISHED, RENDERED OR MADE AVAILABLE BY, THE SEWERAGE SYSTEM
26 OR WATER SYSTEM, OR BOTH, AS THE CASE MAY BE, OWNED BY THE WATER BOARD
27 PURSUANT TO THIS TITLE. THE WATER BOARD`S ANNUAL WATER AND SEWER RATES
28 CANNOT BE SET LESS THAN THIRTY DAYS AFTER THE CITY ADOPTS ITS BUDGET.
29 Notice of such public hearing shall be conspicuously published in a
30 newspaper of general circulation, within each borough, at least one week
31 prior to the hearing.

32 S 3. This act shall take effect immediately.

.SO DOC A 3791

END

BTXT

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Prior City Legislative Attempts at Change:

1) 1991 Int. No. 413, co-primed sponsored by Council Members Leffler and Pinkett, would empower the City Council in influencing the setting of water and sewer rates by the New York City Water Board. It would achieve this by requiring rate-setting after the Council adopts the budget. As a result, the Water Board would set rates to cover the cost of DEP's water supply and sewer operations as approved by the Council (in adopting the budget).

2) Several negotiation sessions in 1993 led to a November 1993 proposal to empower the Council to directly influence the setting of rates after FY97. A Dinkins administration freeze on water rate increases applied through FY 96. DEP didn't believe it would have sufficient revenue via meter accounts before FY98. The legislation was crafted to empower the council earlier if DEP meter revenue accounted for 75 percent of its water revenue. The Council's financial analysts informally concurred with this view that the revenue shortfall would impact on the bond rating of the Municipal Water Finance Authority. A lower bond rating would have caused a rate increase.

3) Int. No. 413 was re-introduced in 1994 as Int. No. 72 and passed later that summer by the Council, following an apparent agreement with the new administration. Before the Council passed what became Int. No. 72-A, the Council and the administration agreed to delay the effective date to the current fiscal year; upon my advice, all parties agreed to provide one more year.

4) The Mayor vetoed the legislation, not on policy but on his legal objections, despite its bi-partisan support in committee and in the Council. As the Council was poised to override the Mayor, the Water Board adopted a resolution, August 23, 1994, to implement the substance of Int. No. 72-A, thus obviating any further need for Council action. The Water Board resolution also directed its Executive Director to take such necessary actions as amending its Financing Agreement and amending the Board's rate setting schedule after fiscal year 1998 in order that rates would not be established until final adoption of the City's budget has occurred. The resolution affected the rate-setting process after fiscal year 1998.

5) On October 7, 1996, the then-Executive Director of the Water Board advised that the financial work for implementing this resolution would have begun around the spring 1997.

6) According to my notes, at the Council's joint Finance/Environmental Protection Committees May 1997 hearing on the Capital Budget, then Commissioner Miele committed to comply with the resolution. The next step was a Report to Water Board due January 1, 1998 on implementing the resolution.

7) At the November 24, 1997 City Council Committee on Environmental Protection oversight hearing on DEP, then Commissioner Miele indicated that his staff would provide him a briefing document on this issue. Based upon my inquiry, I had learned the rate-consultant is preparing the documents involved for that that briefing by the end of that year.

8) On December 22, 1997, DEP advised of a December 19, 1997 Water Board Resolution to delay the implementation of accountability in the setting of water and sewer rates for at least another two years and after that date, the policy would be delayed further if revenues from metered accounts still did not exceed 75%; metered accounts provide about 65% of the revenue because of delays in getting large buildings metered.

The City bills:

Int. No. 404

By Council Members Gennaro, Brewer, Clarke, Comrie, DeBlasio, Dilan, Jennings, Liu, Lopez, Monserrate, Reyna, Sears, Serrano, Baez, Davis, Fidler, Gentile, Gerson, Jackson, Koppell, Martinez, Nelson, Quinn, Stewart, Weprin and Yassky

A Local Law to amend the administrative code of the city of New York, in relation to the setting of water and sewer charges.

Be it enacted by the Council as follows:

Section 1. Chapter three of title eleven of the administrative code of the city of New York is hereby amended by adding thereto a new section 11-356 to read as follows:

§11-356 Additional provisions relating to the water and sewer systems. The city shall not perform any billing services with respect to charges, rates, rents or fees imposed for water supplied by the municipal water supply system or for use of the sewer system, as defined in section 24-514, where such charges, rates, rents or fees are based on water rates established fewer than fifteen days subsequent to the adoption of a budget in accordance with chapters six, nine and ten of the charter.

§2. This local law shall take effect immediately.

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DD

3/21/03 1:00 p.m.

Above is the same as the old Leffler bill I authored with Jeff Haberman; 1994 legislation (I-0113), subsequently reflected in the board's own resolution that it rescinded in Dec. 1998.

Int. No. 113

By Council Members Leffler, Pinkett, Fusco, Provenzano and Stabile; also Council Members Foster, Harrison, McCaffrey, Michels, Robinson, Wooten and DiBrienza.

A Local Law to amend the Administrative Code of the City of New York in relation to the setting of water and sewer charges.

Be it enacted by the Council as follows:

Section one. Chapter three of title eleven of the administrative code of the city of New York is hereby amended by adding thereto a new section 11-356 to read as follows:

§11-356. Additional provisions relating to the water and sewer systems. The city shall not perform any billing services with respect to charges, rates, rents or fees imposed after fiscal year 1998 for water supplied by the municipal water supply system or for use of the sewer system, as defined in section 24-514, where such charges, rates, rents or fees are based on water rates established fewer than fifteen days subsequent to the adoption of a budget, in accordance with chapters six, nine and ten of the charter.

2. This local law shall take effect immediately.

sponsors: *Fusco, John *Leffler, Sheldon S. *Pinkett, Mary *Povman, Morton Demarco, Michael Michels, Stanley E. Pagan, Antonio Rivera, Jose Ruiz, Israel

06/22/1994 City Council Approved by Council Pass 50 - AFFIRMATIVE 1 - NEGATIVE

Int. No. 72- A

By Council Members Leffler, Pinkett, Cerullo III and Fusco; also Council Members DeMarco and Michels.

A LOCAL LAW

To amend the administrative of the city of New York in relation to the setting of water and sewer charges.

Be it enacted by the Council as follows:

Section 1. Chapter three of title eleven of the administrative code of the city of New York is hereby amended by adding thereto a new section 11-355 to read as follows:

§11-355. Additional provisions relating to the water and sewer systems. The provisions of this title and section 24-514 of the administrative code shall not apply to any charges, rates, rents or fees imposed after fiscal year 1998 for water supplied by the municipal water supply system or for use of the sewer system, as defined in section 24-514, where such charges, rates, rents or fees are based on water rates established fewer than fifteen days subsequent to the adoption of a budget in accordance with chapters six, nine and ten of the charter.

§2. This local law shall take effect immediately.

Referred to the Committee on Governmental Operations.

Int. No. 72

By Council Members Leffler, Pinkett, Cerullo III and Fusco; also Council Members DeMarco and Michels.

A LOCAL LAW

To amend the administrative of the city of New York in relation to the setting of water and sewer charges.

Be it enacted by the Council as follows:

Section 1. Chapter three of title eleven of the administrative code of the city of New York is hereby amended by adding thereto a new section 11-355 to read as follows:

§11-355. Additional provisions relating to the water and sewer systems. The provisions of this title and section 24-514 of the administrative code shall not apply to any charges, rates, rents or fees imposed after fiscal year 1997 or when more than seventy-five percent of the charges, rates, rents or fees to be imposed in any fiscal year shall be imposed for metered premises, as defined in section 11-313 of this chapter, whichever occurs first, for water supplied by the municipal water supply system or for use of the sewer system, as defined in section 24-514, where such charges, rates, rents or fees are based on water rates established fewer than fifteen days subsequent to the adoption of a budget in accordance with chapters six, nine and ten of the charter.

§2. This local law shall take effect immediately.

Referred to the Committee on Governmental Operations.

SG:sm

DG-LL

LS#33

1/07/94