

LAWS OF NEW YORK, 2001

CHAPTER 193

AN ACT in relation to establishing the Smithtown special library district

Became a law August 20, 2001, with the approval of the Governor.
Passed by a majority vote, three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Establishment of library. Notwithstanding the provisions of any general, special or local law to the contrary there is hereby created and established in the county of Suffolk a special library district which shall be known as the "Smithtown special library district" and shall include all of the town of Smithtown excluding the areas currently serviced by the Sachem public library and by the Emma S. Clark memorial library.

§ 2. Elections. 1. The special library district herein described shall not come into existence unless and until it is approved by a vote of the majority of the qualified voters voting in an election held pursuant to the provisions of this section. Upon receipt of a petition signed by not less than twenty-five voters qualified to vote at a general town election in the town of Smithtown, the board of elections of the county of Suffolk shall give notice of an election to be held on the first Tuesday next succeeding the first Monday in November, 2001. If a majority of the qualified voters casting votes at said election approve the formation of the district, then the district shall come into existence on January 1 next succeeding the election on the terms and conditions set forth hereinafter. If the majority of qualified voters casting votes at said election do not approve the formation of the special library district, then the district shall not come into existence. At said election the issue shall be: whether the Smithtown special library district herein described shall be created or not.

The board of elections for the county of Suffolk shall give notice of said election by the publication of a notice in one or more newspapers having a general circulation in the district to be served. The first publication of such notice shall be not less than thirteen days and not more than twenty days prior to the date of such election. In addition, the board of elections of the county of Suffolk shall cause copies of such notice to be posted conspicuously in three public places in the town of Smithtown at least thirteen days prior to the date of such election. Such notice shall specify the time when such election will be held, the issue to be decided at said election and the hours during which polls will be open for the receipt of ballots. The board of elections of the county of Suffolk shall prepare the ballots for such election and the polls shall remain open in accordance with the provisions of the election law referring to general elections. Every qualified voter of the town of Smithtown otherwise qualified to vote at a general town election shall be qualified to vote at said election. After the polls have closed at said election, the election inspectors

EXPLANATION--Matter in italics is new; matter in brackets [-] is old law to be omitted.

and the ballot clerks shall immediately canvass publicly the ballots cast and the chairman of the election shall publicly announce the result. Within seventy-two hours thereafter, the board of elections of the county of Suffolk shall execute and file a certificate of the result of the canvass with the board of trustees of the Smithtown library and with the clerk of the town of Smithtown. In the event the special district is created, the members of the board of trustees of the Smithtown library residing in the special district shall serve as the board of trustees of the special district until June 30, 2002. Any trustee not residing in the special district shall be replaced by majority vote of the remaining members of the board and shall serve until June 30, 2002.

2. In the event that the district is created there shall be a second election conducted by the board of trustees of the Smithtown special library district in accordance with the provisions of this subdivision. (a) The board of trustees of the Smithtown special library district shall give notice of an election to be held prior to the first day of July but subsequent to the first day of April following the creation of the Smithtown special library district. At said election the issues shall be:

(i) whether the proposed budget for the Smithtown special library district shall be approved or disapproved; and

(ii) the election of seven trustees as hereinafter provided.

(b) The trustees of the Smithtown special library district shall give notice of said election by the publication of a notice in one or more newspapers having a general circulation in the district to be served. The first publication of such notice shall be not less than thirteen days and not more than forty-five days prior to the date of such election. In addition, the board of trustees of the Smithtown special library district shall cause copies of such notice to be posted conspicuously in three public places in the Smithtown special library district at least thirteen days prior to the date of such election. Such notice shall specify the time when and the places where such election will be held, the issues to be decided at said election and the hours during which polls will be open for the receipt of ballots. The board of trustees of the Smithtown special library district shall prepare the ballots for such election and the polls shall remain open for the receipt thereof at all elections from twelve o'clock p.m. (noon) until nine p.m., and such additional consecutive hours prior thereto as the board of trustees of the Smithtown special library district may have determined and specified in the notice thereof. The board of trustees shall designate a resident qualified voter of such district to act as chairman of any election of such district and shall designate not less than two nor more than four resident qualified voters at each polling place to act as election inspectors and ballot clerks at such elections. The board of trustees shall designate four polling places in the district, or in the event that there are fewer a number equal to the number of branches of the library within the Smithtown special library district. No trustee shall serve as chairman or as an election inspector or ballot clerk. The board of trustees may adopt a resolution providing that such chairman, election inspectors and ballot clerks shall be paid for their respective services at the initial election or at any annual election or at any subsequent special election. Such resolution, if adopted, may fix reasonable compensation for the services of each such official. Every qualified voter of the town of Smithtown who resides in the Smithtown special library district otherwise qualified to vote at a general town election shall be qualified to vote at said election. After the polls

have closed at said election, the election inspectors and the ballot clerks shall immediately canvass publicly the ballots cast and the chairman of the election shall publicly announce the result. Within seventy-two hours thereafter, the chairman, election inspectors and ballot clerks shall execute and file a certificate of the result of the canvass with the board of trustees and with the clerk of the town of Smithtown.

(c) Candidates for the office of member of the board of trustees shall be nominated by petition. No vacancy on the board of trustees to be filled shall be considered a separate specific office. A separate petition shall be required to nominate each candidate for a vacancy on the board. Each petition shall be directed to the secretary of the board of trustees, shall be signed by at least twenty-five qualified voters of the district, shall state the residence of each signer, and shall state the name and residence of the candidate. In the event that any such nominee shall withdraw his candidacy prior to the election, such person shall not be considered a candidate unless a new petition nominating such person in the same manner and within the same time limitations applicable to other candidates is filed with the secretary of the board of trustees. Each petition shall be filed with the secretary of the board of trustees between the hours of nine a.m. and five p.m., not later than the thirtieth day preceding the election at which the candidates nominated are to be elected.

3. In the event that the district is created and after the year in which the board of trustees of the district are elected there shall be an annual election conducted by the board in accordance with the provisions of this subdivision as hereinafter provided for, at a time to be set by the board to be held prior to the first day of July but subsequent to the first day of April of each year, at which election vacancies on the board of trustees shall be filled and at which any proposed budget which the board shall determine to submit to the voters pursuant to section four of this act shall be submitted to the voters. The trustees of the Smithtown special library district shall give notice of, prepare ballots for and conduct said annual election pursuant to the provisions set forth in paragraph (b) of subdivision 2 of this section.

4. Candidates for the office of member of the board of trustees shall be nominated, vacancies filled and petitions filed pursuant to the provisions of paragraph (c) of subdivision 2 of this section.

5. At any election in such district, the voters may adopt a proposition providing that, in all subsequent elections, vacancies on the board of trustees shall be considered separate specific offices and that the nominating petitions shall describe the specific vacancy upon the board of trustees for which the candidate is nominated, which description shall include at least the length of the term of office and the name of the last incumbent, if any. No person shall be nominated for more than one specific office. Such procedure shall be followed with respect to all nominations and elections in subsequent years until and unless such proposition is repealed by the electors of the district at a regular election by adoption of a proposition to repeal the same.

§ 3. Organization and structure. The Smithtown special library district shall be managed, operated and controlled by a board of trustees consisting initially of the members of the board of trustees of the Smithtown library residing in the Smithtown special library district until June 30, 2002, and thereafter by seven elected trustees. The trustees shall at the first regular meeting of the board after the election conducted pursuant to paragraph (b) of subdivision 2 of section two of

this act determine by lot the year in which each of their successor terms of office expire, and the terms shall expire as follows: after one year-two trustees; after two years-three trustees; after three years-two trustees. Trustees shall be elected at the annual election herein provided for to serve three year terms by the voters of the special library district hereby created, said terms to commence on the first day of July next following the election. Only qualified voters of the district shall be eligible for election to the board of trustees. The board of trustees at its first meeting each year shall elect or appoint a president and vice-president who shall be members of the board and a clerk, treasurer and such other officers as they deem necessary. If the board so determines, the offices of clerk and treasurer may be held by individuals who are not members of the board of trustees and, in that event, such officers may, if the board so determines, receive compensation as fixed by resolution of the board. The trustees shall fill any vacancy occurring in the office of any trustee other than by the expiration of his or her term by electing another trustee who shall hold office until the next annual election of trustees.

§ 4. Finances. 1. The initial budget for the Smithtown special library district shall be the library budget for the 2002 town fiscal year. The budget submitted to the voters under paragraph (a) of subdivision 2 of section two of this act for 2003 shall be prepared by the trustees of the board of the Smithtown special library district. All future budgets that increase or decrease the appropriation last approved by the voters shall be submitted to the residents of the special library district for approval by a majority of those residents voting at the annual election of trustees of the board of the Smithtown special library district pursuant to section two of this chapter referring to the annual election. Funds voted for library purposes shall, unless otherwise directed by such vote, be considered an annual appropriation therefor until changed by further vote and shall be levied and collected yearly in the same manner and at the same time as other taxes in the town of Smithtown.

2. The board of trustees shall annually file with the clerk of the town of Smithtown on or before the first day of November an estimate of the proposed budget including costs of library services to be raised by levy for the library district in the fiscal year beginning on the first day of January of the following year. The town shall not make any change in the estimate of revenues or expenditures submitted by the board of the library district in preparation of its preliminary budget.

3. The town board of the town of Smithtown shall levy a tax against the real property lying within the district for their respective shares of the amount to be raised by tax as contained in the annual budget of such district approved by its voters at its annual election, said shares to be determined by the ratio, each to the other, of the full valuation which term shall mean, the valuation which is derived by dividing the appropriate portions of the assessed valuation of the real property concerned as shown by the last completed assessment roll of the town, by the town equalization rates established by the authorized state officer or agency for such roll, of the real property lying within the jurisdiction. The town board may issue tax anticipation notes, revenue anticipation notes and bond anticipation notes pursuant to article 2 of the local finance law to obtain the necessary moneys therefor.

4. The town board of the town of Smithtown shall have the power to authorize, sell and issue bonds, notes and other evidences of indebtedness pursuant to the local finance law in order to permit the special

library district to provide facilities or improve facilities for library purposes. Upon written request from the board of trustees of the special library district, after approval by the qualified voters of such district, the town board of the town of Smithtown shall authorize, sell and issue such bonds, notes or other evidences of indebtedness as are necessary to accomplish the improvements specified in the notice. The proceeds of such bonds, notes or other evidences of indebtedness shall be paid to the treasurer of the special library district and maintained in a segregated account in accordance with section 165.00 of the local finance law and expended by the treasurer only on specific authorization by the board of trustees.

5. The board of trustees of the special library district may accept on behalf of the district any absolute gift, devise or bequest of real or personal property and such conditional gifts, devises or bequests as it shall by resolution approve.

6. The treasurer of the special library district shall be custodian of all funds of the special library district including gifts and trust funds paid over to the trustees. The board of trustees may authorize the investment of funds in the custody of the treasurer in the same manner in which town funds may be invested. Proceeds of obligations received from the town may be invested in accordance with section 165.00 of the local finance law. The supervisor of the town board of the town of Smithtown shall promptly pay over to the special library district all moneys which belong to or are raised for the special library district. No moneys shall be disbursed by the treasurer of the special library district except after audit by the board of trustees. The board of trustees shall audit all claims and shall order the payment thereof, except as otherwise provided by this section. No such claims shall be audited or ordered paid by the trustees unless an itemized voucher therefor shall be presented to the board of trustees for audit and allowance. The provisions of this section shall not be applicable to payment of claims of fixed salaries and amounts which the special library district may be required to pay on account of retirement contributions for past or current services to officers and employees of the special library district. The treasurer shall keep such records in such manner as the board of trustees may require and subject to the provisions of section 36 of the general municipal law.

§ 5. Charter, commencement of operations, and transfer of property and employees. The trustees shall, within thirty days from the date of the creation of the Smithtown special library district, apply to the board of regents for a charter as a public library. Upon the granting of such a charter by the board of regents, then title to all property, real and personal, tangible and intangible, trusts and other funds, now held by the Smithtown library shall be transferred to, vest in, and be acquired by the Smithtown special library district hereby established. No title to any real property shall be transferred by the Smithtown special library district without the prior approval of the Smithtown town board. Upon the granting of such charter by the board of regents, all employees of the Smithtown library shall become employees of the Smithtown special library district upon the same terms and conditions of employment and at the same rate of pay as their previous employment by the Smithtown library.

§ 6. Ad valorem levy. The several lots and parcels of land within the area of said special library district are hereby determined to be benefited by the library facilities and services existing as of the effective date of this act and the town board of the town of Smithtown is

hereby authorized to assess, levy and collect the necessary expenses of operation, maintenance and repair of such facilities and services and such capital improvements including debt service on bonds, notes or other evidences of indebtedness of the Smithtown special library district issued for the purpose of such special library district as may be hereafter authorized pursuant to the provisions of this act from such lots and parcels of land in the same manner and at the same time as other town charges.

§ 7. Education law. Except as otherwise provided by this act, the provisions of the education law relating to public libraries shall be applicable to the Smithtown special library district herein established.

§ 8. This act shall take effect immediately.

The Legislature of the STATE OF NEW YORK ss:

Pursuant to the authority vested in us by section 70-b of the Public Officers Law, we hereby jointly certify that this slip copy of this session law was printed under our direction and, in accordance with such section, is entitled to be read into evidence.

JOSEPH L. BRUNO

Temporary President of the Senate

SHELDON SILVER

Speaker of the Assembly