

Subject: River District: Pay up, counties
River district: Pay up, counties
Saturday, February 6, 2010
By [Jason Subik \(Contact\)](#)
Gazette Reporter

Text Size: [A](#) | [A](#) | [A](#)

CAPITAL REGION — Officials around the Capital Region reacted with shock and anger Friday after their counties received flood control bills totaling \$4.5 million from the cash-starved Hudson River Black River Regulating District.

For the first time in its history, HRBRRD sent the bills to the counties of Albany, Saratoga, Rensselaer, Warren and Washington, charging them for the flood control benefit the regulating district argues they receive from the Conklingville Dam, which created the Great Sacandaga Lake.

Mary Duryea, spokeswoman for Albany County Executive Mike Breslin, said that the county received a bill from the regulating district on Thursday for \$1.7 million. She said her county doesn't have the money to pay the bill and has referred the issue to its attorney.

"It's money we didn't budget for this year or for next year. In 2011 we're anticipating a budget gap of \$25 million to \$30 million already," she said. "We don't have it. This is just another unfair burden on county property taxpayers."

Billing the counties for flood control benefits is a change from 80 years of regulating district policy. Traditionally, the regulating district charged a relatively small annual flood control fee to the cities of Albany, Rensselaer, Troy, Watervliet and the village of Green Island. Things changed when a federal court ruled in 2008 that the regulating district could no longer pass on the cost of its operating budget and local property taxes to downstate hydroelectric plants licensed by the Federal Energy Regulatory Commission. The ruling eliminated about 80 percent, or \$4 million, of the district's \$5.8 million Hudson River-area operating budget.

The regulating district has dramatically increased the flood control charges to make up for the lost hydroelectric plant revenues. Regulating district Executive Director Glenn LaFave said that without an influx of cash, the district could run out of money to pay its employees by June.

The regulating district has already delayed indefinitely the payment of about \$1.5 million in school taxes it owes for the 2009-10 school year to the districts of Broadalbin-Perth, Edinburg, Hadley-Luzerne, Mayfield, Northville and Wells.

On Wednesday, state Department of Conservation Commissioner Pete Grannis approved a "reapportionment" of the now expanded flood control benefit charge. The reapportionment allows the regulating district to bill Albany County for 38.38 percent of the flood control benefits, Saratoga County 33.69 percent, Rensselaer County 17.55 percent, Warren County 6.53 percent and Washington County 3.85 percent.

Rensselaer County Executive Kathleen Jimino issued a news release Friday asking the regulating district to rescind the \$781,400 flood control bill it sent her county.

"I will fight this back-door mandate that shifts the entirety of this state-created district's expenses onto counties and our local taxpayers, who are already paying too much in taxes," Jimino stated. "Under the

fee schedule this [regulating] district has contrived, Rensselaer County taxpayers would be required to send nearly \$800,000 to the district to help fund their operation. This is an expense we have never had to pay since the district began billing 85 years ago and I feel that under no circumstances should we have to pay now.”

Saratoga County Administrator David Wickerham said the \$1.5 million flood control bill to his county was unfair. He acknowledged that one of the school districts affected by the regulating district funding crisis, Edinburg, is located in his county but said his county would rather make one school district whole for unpaid taxes than force county residents who’ve never received any flood control benefits from the Conklingville Dam to pay such a high percentage of HRBRRD’s operating budget.

“These are unelected bureaucrats passing along costs. This is close to taxation without representation,” Wickerham said. “When you go back into the historic records, the reason this [dam] was created had nothing to do with Saratoga County or even Albany County. It was to do flood control further down the Hudson River in places like Poughkeepsie, Kingston, really all the way down to New York City. If you really wanted to do this on the basis of the benefits of flood control, you’d [send a bill] to every county that touches the Hudson River.”

LaFave said the reason the regulating district sent the bills to the five upstate counties, and none to downstate areas that may benefit from flood control, is that the regulating district only has the authority to assess for flood control within the boundaries of the Hudson River watershed, ending at the southern borders of Albany and Rensselaer counties.

“We don’t have the legal authority to bill downstate counties. It would take a change in legislation,” LaFave said.

State Sen. Roy McDonald, R-Wilton, said he doesn’t know whether he would support changing state law to allow the regulating district to assess areas farther downstate for flood control benefits, but he is angry that so much of the district’s operating costs are being pushed onto upstate counties, including several he represents. He said he wants more information about HRBRRD’s operating costs.

“I don’t know if expanding their ability to collect this money is the answer, either. How is this operation run? What’s the cost? This a nightmare for these upstate counties. This was a terrible way to handle this,” McDonald said. “I just found out about this at 4:30 p.m. [Thursday], and that’s unacceptable. They gave no notification to the state legislators who represent these areas.”

The regulating district posted a news release about the reapportionment on its Web site, www.hrbrdd.com, on Friday. Regulating district officials have been talking about the pending reapportionment of the flood control benefit charges since October.

LaFave explained the reapportionment formula district staff used to form the bills. He said the reapportionment divides the needed funds across the value of property in the five counties located within the Hudson River’s 100-year flood plain. The district estimates that the land within the flood plain is worth a combined \$4.2 billion.

The reapportionment formula used to bill the counties is a temporary fix. The regulating district’s board has hired Washington-based consulting firm American Economics Group to perform a permanent reapportionment study. That study isn’t expected to be completed until July and won’t be used until the regulating district sends out flood control bills for its 2010-11 fiscal year. LaFave said it’s possible the permanent reapportionment study may recommend that HRBRRD go back to billing specific municipalities and not counties.

The regulating district will conduct a grievance hearing for the reapportionment at 10 a.m. March 30 at the Holiday Inn in Saratoga Springs.

LaFave said the bills sent to the counties this week have no due dates and won't until after the grievance hearing. He said that if the regulating district's board of directors decides to change the reapportionment formula, new bills with due dates will be issued.

"The board anticipates they are going to hear a lot of information at the grievance hearing," LaFave said.

In the meantime, state Sen. Hugh Farley, R-Niskayuna, said he's fighting for a bill that will allow the regulating district to borrow money against the value of about \$3 million in its Black River-area reserves to pay its Hudson River-area school taxes and operating costs. He said the bill has the backing of Gov. David Paterson and the state comptroller's office and broad support in both parties in both houses of the Legislature.

"The legislature works slowly, but I think it will pass," he said.

HRBRRD is the single largest taxpayer in Northville, Broadalbin-Perth and Edinburg, owing those districts \$326,000, \$256,000 and \$234,000 for the 2009-10 school year respectively.
