

4075

2013-2014 Regular Sessions

I N S E N A T E

March 7, 2013

Introduced by Sen. MARCELLINO -- (at request of the State Comptroller)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law and the general municipal
law, in relation to clarifying and making certain technical
corrections to the public authorities reform act of 2009; and to
repeal certain provisions of the public authorities law relating ther-
eto

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

1 Section 1. Paragraphs (a) and (b) of subdivision 1 and subdivision 2
2 of section 2800 of the public authorities law, as amended by chapter 506
3 of the laws of 2009, are amended to read as follows:
4 (a) For the purpose of furnishing the state with systematic informa-
5 tion regarding the status and the activities of public authorities,
6 every state authority continued or created by this chapter or any other
7 chapter of the laws of the state of New York shall submit to the gover-
8 nor, the chairman and ranking minority member of the senate finance
9 committee, the chairman and ranking minority member of the assembly ways
10 and means committee, the state comptroller, and the authorities budget
11 office, within ninety days after the end of its fiscal year, a complete
12 and detailed report or reports setting forth: (1) its operations and
13 accomplishments; (2) its financial reports, including (i) audited finan-
14 cials in accordance with all applicable regulations and following gener-
15 ally accepted accounting principles as defined in subdivision ten of
16 section two of the state finance law, (ii) grant and subsidy programs,
17 (iii) operating and financial risks, (iv) current ratings, if any, of
18 its bonds issued by recognized municipal bond rating agencies and notice
19 of changes in such ratings, and (v) long-term liabilities, including
20 leases and employee benefit plans; (3) its mission statement and meas-
21 urements including its most recent measurement report; (4) a schedule of

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 its bonds and notes outstanding at the end of its fiscal year, together
2 with a statement of the amounts redeemed and incurred during such fiscal
3 year as part of a schedule of debt issuance that includes the date of
4 issuance, term, amount, interest rate and means of repayment. Addi-
5 tionally, the debt schedule shall also include all refinancings, calls,
6 refundings, defeasements and interest rate exchange or other such agree-
7 ments, and for any debt issued during the reporting year, the schedule
8 shall also include a detailed list of costs of issuance for such debt;
9 (5) a compensation schedule, [in addition to the report described in
10 section twenty-eight hundred six of this title,] that shall include, (I)
11 by position, title and name of the person holding such position or
12 title, the salary, compensation, AND allowance [and/or] PAID TO SUCH
13 PERSON, AND (II) benefits provided to any officer, director or employee
14 in a decision making or managerial position of such authority whose
15 salary is in excess of one hundred thousand dollars; [(5-a) biographical
16 information, not including confidential personal information, for all
17 directors and officers and employees for whom salary reporting is
18 required under subparagraph five of this paragraph;] (6) the projects
19 undertaken by such authority during the past year; (7) a listing and
20 description[, in addition to the report required by paragraph a of
21 subdivision three of section twenty-eight hundred ninety-six of this
22 article] of all real property of such authority having an estimated fair
23 market value in excess of fifteen thousand dollars that the authority
24 acquires or disposes of during such period. The report shall contain the
25 price received or paid by the authority and the name of the purchaser,
26 LESSEE, LESSOR or seller for all such property sold, LEASED or bought by
27 the authority during such period; (8) such authority's code of ethics;
28 (9) an assessment of the effectiveness of its internal control structure
29 and procedures; (10) [a copy of the legislation that forms the statutory
30 basis of the authority; (11) a description of the authority and its
31 board structure, including (i) names of committees and committee
32 members, (ii) lists of board meetings and attendance, (iii) descriptions
33 of major authority units, subsidiaries, and (iv) number of employees;
34 (12) its charter, if any, and by-laws; (13) a listing of material chang-
35 es in operations and programs during the reporting year; (14) at a mini-
36 mum a four-year financial plan, including (i) a current and projected
37 capital budget, and (ii) an operating budget report, including an actual
38 versus estimated budget, with an analysis and measurement of financial
39 and operating performance; (15)] its board performance evaluations;
40 provided, however, that such evaluations shall not be subject to disclo-
41 sure under article six of the public officers law; [(16)] (11) a
42 description of the total amounts of assets, services or both assets and
43 services bought or sold without competitive bidding, including (i) the
44 nature of those assets and services, (ii) the names of the counterpar-
45 ties, and (iii) where the contract price for assets purchased exceeds
46 fair market value, or where the contract price for assets sold is less
47 than fair market value, a detailed explanation of the justification for
48 making the purchase or sale without competitive bidding, and a certif-
49 ication by the chief executive officer and chief financial officer of
50 the public authority that they have reviewed the terms of such purchase
51 or sale and determined that it complies with applicable law and procure-
52 ment guidelines; and [(17)] (12) a description of any material pending
53 litigation in which the authority is involved as a party during the
54 reporting year, except that no hospital need disclose information about
55 pending malpractice claims beyond the existence of such claims.

1 (b) Each state authority shall make accessible to the public, via its
2 official or shared internet web site, (1) documentation pertaining to
3 its mission[,] AND current activities[,]; (2) ITS most recent annual
4 REPORT AND financial [reports] STATEMENTS, AND current [year] budget
5 [and] REPORTS; (3) its most recent independent audit report AND ANY
6 OTHER REPORT PROVIDED TO THE AUTHORITIES BUDGET OFFICE unless such
7 information is covered by subdivision two of section eighty-seven of the
8 public officers law; (4) BIOGRAPHICAL INFORMATION, NOT INCLUDING CONFIDENTIAL
9 PERSONAL INFORMATION, PERTAINING TO THE PROFESSIONAL QUALIFICATIONS
10 AND EXPERTISE FOR ALL DIRECTORS AND OFFICERS; (5) A COPY OF THE
11 LEGISLATION THAT FORMS THE STATUTORY BASIS OF THE AUTHORITY; (6) A
12 DESCRIPTION OF THE AUTHORITY AND ITS BOARD STRUCTURE, INCLUDING (I)
13 NAMES OF COMMITTEES AND COMMITTEE MEMBERS, (II) MINUTES OF BOARD MEETINGS,
14 (III) DESCRIPTIONS OF MAJOR AUTHORITY UNITS AND SUBSIDIARIES, (IV)
15 NUMBER OF EMPLOYEES AND STAFF; (7) AN ORGANIZATION CHART; (8) ITS CHARACTER,
16 IF ANY, AND A COPY OF ITS CURRENT BY-LAWS; (9) A LISTING OF MATERIAL
17 CHANGES IN OPERATIONS AND PROGRAMS DURING THE REPORTING YEAR; AND
18 (10) ANY OTHER INFORMATION AS MAY BE REQUIRED BY THE STATE COMPTROLLER
19 OR AUTHORITIES BUDGET OFFICE.

20 2. Local authorities. (a) Every local authority[, continued or created
21 by this chapter or any other chapter of the laws of the state of New
22 York] shall submit to the chief executive officer, the chief fiscal
23 officer, the chairperson of the legislative body of the local government
24 or local governments, THE STATE COMPTROLLER and the authorities budget
25 office, within ninety days after the end of its fiscal year, a complete
26 and detailed report or reports setting forth: (1) its operations and
27 accomplishments; (2) its financial reports, including (i) audited financials
28 in accordance with all applicable regulations and following generally
29 accepted accounting principles as defined in subdivision ten of
30 section two of the state finance law, (ii) grants and subsidy programs,
31 (iii) operating and financial risks, (iv) current ratings if any, of its
32 bonds issued by recognized municipal bond rating agencies and notice of
33 changes in such ratings, and (v) long-term liabilities, including leases
34 and employee benefit plans; (3) its mission statement and measurements
35 including its most recent measurement report; (4) a schedule of its
36 bonds and notes outstanding at the end of its fiscal year, together with
37 a statement of the amounts redeemed and incurred during such fiscal year
38 as part of a schedule of debt issuance that includes the date of issuance,
39 term, amount, interest rate and means of repayment. Additionally,
40 the debt schedule shall also include all refinancings, calls, refundings,
41 defeasements and interest rate exchange or other such agreements, and
42 for any debt issued during the reporting year, the schedule shall also
43 include a detailed list of costs of issuance for such debt; (5) a compensation
44 schedule [in addition to the report described in section twenty-eight
45 hundred six of this title] that shall include, (I) by position, title and
46 name of the person holding such position or title, the salary, compensation,
47 AND allowance [and/or] PAID TO SUCH PERSON, AND (II) benefits provided
48 to any officer, director or employee in a decision making or managerial
49 position of such authority whose salary is in excess of one hundred thousand
50 dollars; [(5-a) biographical information, not including confidential personal
51 information, for all directors and officers and employees for whom salary
52 reporting is required under subparagraph five of this paragraph;] (6) the
53 projects undertaken by such authority during the past year; (7) a listing
54 and description[, in addition to the report required by paragraph a of
55 subdivision three of section twenty-eight hundred ninety-six of this
56

1 article] of all real property of such authority having an estimated fair
2 market value in excess of fifteen thousand dollars that the authority
3 acquires or disposes of during such period. The report shall contain the
4 price received or paid by the authority and the name of the purchaser,
5 LESSEE, LESSOR or seller for all such property sold, LEASED or bought by
6 the authority during such period; (8) such authority's code of ethics;
7 (9) an assessment of the effectiveness of its internal control structure
8 and procedures; (10) [a copy of the legislation that forms the statutory
9 basis of the authority; (11) a description of the authority and its
10 board structure, including (i) names of committees and committee
11 members, (ii) lists of board meetings and attendance, (iii) descriptions
12 of major authority units, subsidiaries, (iv) number of employees, and
13 (v) organizational chart; (12) its charter, if any, and by-laws; (13) a
14 listing of material changes in operations and programs during the
15 reporting year; (14) at a minimum a four-year financial plan, including
16 (i) a current and projected capital budget, and (ii) an operating budget
17 report, including an actual versus estimated budget, with an analysis
18 and measurement of financial and operating performance; (15)] its board
19 performance evaluations provided, however, that such evaluations shall
20 not be subject to disclosure under article six of the public officers
21 law; [(16)] (11) a description of the total amounts of assets, services
22 or both assets and services bought or sold without competitive bidding,
23 including (i) the nature of those assets and services, (ii) the names of
24 the counterparties, and (iii) where the contract price for assets
25 purchased exceeds fair market value, or where the contract price for
26 assets sold is less than fair market value, a detailed explanation of
27 the justification for making the purchase or sale without competitive
28 bidding, and a certification by the chief executive officer and chief
29 financial officer of the public authority that they have reviewed the
30 terms of such purchase or sale and determined that it complies with
31 applicable law and procurement guidelines; and [(17)] (12) a description
32 of any material pending litigation in which the authority is involved as
33 a party during the reporting year, except that no provider of medical
34 services need disclose information about pending malpractice claims
35 beyond the existence of such claims.

36 (b) Each local authority shall make accessible to the public, via its
37 official or shared internet web site, (1) documentation pertaining to
38 its mission[, AND current activities[,]; (2) ITS most recent annual
39 REPORT AND financial [reports] STATEMENTS, AND current [year] budget
40 [and] REPORTS; (3) its most recent independent audit report AND ANY
41 OTHER REPORT PROVIDED TO THE AUTHORITIES BUDGET OFFICE unless such
42 information is covered by subdivision two of section eighty-seven of the
43 public officers law; (4) BIOGRAPHICAL INFORMATION, NOT INCLUDING CONFIDENTIAL
44 PERSONAL INFORMATION, PERTAINING TO THE PROFESSIONAL QUALIFICATIONS
45 AND EXPERTISE FOR ALL DIRECTORS AND OFFICERS; (5) A COPY OF THE
46 LEGISLATION THAT FORMS THE STATUTORY BASIS OF THE AUTHORITY; (6) A
47 DESCRIPTION OF THE AUTHORITY AND ITS BOARD STRUCTURE, INCLUDING (I)
48 NAMES OF COMMITTEES AND COMMITTEE MEMBERS, (II) MINUTES OF BOARD MEETINGS,
49 (III) DESCRIPTIONS OF MAJOR AUTHORITY UNITS AND SUBSIDIARIES, (IV)
50 NUMBER OF EMPLOYEES AND STAFF; (7) AN ORGANIZATION CHART; (8) ITS CHARTER,
51 IF ANY, AND A COPY OF ITS CURRENT BY-LAWS; (9) A LISTING OF MATERIAL
52 CHANGES IN OPERATIONS AND PROGRAMS DURING THE REPORTING YEAR; AND
53 (10) ANY OTHER INFORMATION AS MAY BE REQUIRED BY THE AUTHORITIES BUDGET
54 OFFICE.

55 S. 2. Subdivision 4 of section 2800 of the public authorities law, as
56 added by chapter 506 of the laws of 2009, is amended to read as follows:

1 4. The authorities budget office may, upon application of any authori-
2 ty, waive any requirements of this section upon a showing that the
3 authority meets the criteria for such a waiver established by regu-
4 lations of the authorities budget office. Such regulations shall provide
5 for consideration of: (a) the number of employees of the authority; (b)
6 the annual budget of the authority; (c) the ability of the authority to
7 prepare the required reports using existing staff; and (d) such other
8 factors as the authorities budget office deems to reflect the relevance
9 of the required disclosures to evaluation of an authority's effective
10 operation, and the burden such disclosures place on an authority. A
11 WAIVER GRANTED PURSUANT TO THIS SUBDIVISION SHALL NOT APPLY TO THE
12 FILING REQUIREMENT IMPOSED ON AN INDUSTRIAL DEVELOPMENT AGENCY BY
13 SECTION EIGHT HUNDRED FIFTY-NINE OF THE GENERAL MUNICIPAL LAW OR TO ANY
14 OTHER REQUIREMENT THAT A STATE OR LOCAL AUTHORITY FILE OR SUBMIT DOCU-
15 MENTS OR INFORMATION TO THE STATE COMPTROLLER. Each waiver granted
16 pursuant to this subdivision shall be disclosed in the reports of such
17 office issued pursuant to section seven of this chapter.

18 S 3. Subdivision 3 of section 2801 of the public authorities law is
19 REPEALED and subdivisions 1 and 2, as amended by chapter 506 of the laws
20 of 2009, are amended to read as follows:

21 1. State authorities. Every state authority or commission heretofore
22 or hereafter continued or created by this chapter or any other chapter
23 of the laws of the state of New York shall submit to the governor, the
24 chair and ranking minority member of the senate finance committee, the
25 chair and ranking minority member of the assembly ways and means commit-
26 tee, THE STATE COMPTROLLER and the authorities budget office, for their
27 information, annually [not more than one hundred twenty days and] not
28 less than [ninety] THIRTY days before the commencement of its fiscal
29 year, in the form submitted to its members or trustees, AN ADOPTED BUDG-
30 ET PLAN OF AT LEAST SIX YEARS AND budget information on operations and
31 capital construction setting forth the estimated receipts and expendi-
32 tures for the next fiscal year [and], the current fiscal year, AND THE
33 NEXT THREE FISCAL YEARS, and the actual receipts and expenditures for
34 the last completed fiscal year.

35 2. Local authorities. For the local authority fiscal year ending on or
36 after December thirty-first, two thousand seven and annually thereafter,
37 every local authority [heretofore or hereafter continued or created by
38 this chapter or any other chapter of the laws of the state of New York]
39 shall submit to the chief executive officer, the chief fiscal officer,
40 the chairperson of the legislative body of the local government or
41 governments, THE STATE COMPTROLLER and the authorities budget office for
42 their information, annually [not more than ninety days and not less than
43 sixty] THIRTY days before the commencement of its fiscal year, in the
44 form submitted to its members or trustees, AN ADOPTED BUDGET PLAN OF AT
45 LEAST SIX YEARS AND budget information on operations and capital
46 construction setting forth the estimated receipts and expenditures for
47 the next fiscal year [and], the current fiscal year, and THE NEXT THREE
48 FISCAL YEARS, AND the actual receipts and expenditures for the last
49 completed fiscal year.

50 S 4. Subdivisions 2 and 7 of section 2802 of the public authorities
51 law, subdivision 2 as amended by chapter 506 of the laws of 2009 and
52 subdivision 7 as added by chapter 766 of the laws of 2005, are amended
53 to read as follows:

54 2. Local authorities. For the local authority fiscal year ending on or
55 after December thirty-first, two thousand seven and annually thereafter,
56 every local authority [heretofore or hereafter continued or created by

1 this chapter or any other chapter of the laws of the state of New York]
2 shall submit to the chief executive officer, the chief fiscal officer,
3 the chairperson of the legislative body of the local government or local
4 governments and the authorities budget office, together with the report
5 described in section twenty-eight hundred of this title, a copy of the
6 annual independent audit report, performed by a certified public
7 accounting firm in accordance with generally accepted auditing standards
8 as defined in subdivision eleven of section two of the state finance
9 law, and management letter and any other external examination of the
10 books and accounts of such authority other than copies of the reports of
11 any examinations made by the state comptroller.

12 7. Notwithstanding any provision of law to the contrary, a [public]
13 STATE OR LOCAL authority may exempt information from disclosure or
14 report, if the counsel of such authority deems that such information is
15 covered by subdivision two of section eighty-seven of the public offi-
16 cers law.

17 S 5. Section 2806 of the public authorities law is REPEALED.

18 S 6. The opening paragraph of subdivision 2 of section 2825 of the
19 public authorities law, as amended by chapter 174 of the laws of 2010,
20 is amended to read as follows:

21 Except for members who serve as members by virtue of holding a civil
22 office of the state OR LOCAL GOVERNMENT, the majority of the remaining
23 members of the governing body of every state or local authority shall be
24 independent members; provided, however, that this provision shall apply
25 to appointments made on or after the effective date of chapter seven
26 hundred sixty-six of the laws of two thousand five which added this
27 subdivision. The official or officials having the authority to appoint
28 or remove such remaining members shall take such actions as may be
29 necessary to satisfy this requirement and further, shall consider the
30 prospective diversity of the members of a state authority when making
31 their determinations to appoint any member. For the purposes of this
32 section, an independent member is one who:

33 S 7. The opening paragraph of subdivision 6 of section 2827-a of the
34 public authorities law, as added by chapter 506 of the laws of 2009, is
35 amended to read as follows:

36 On or before the first day of January, two thousand eleven, and annu-
37 ally on such day thereafter, any subsidiary public benefit corporation,
38 in cooperation with its parent public benefit corporation, shall provide
39 to THE STATE COMPTROLLER, THE DIRECTOR OF THE AUTHORITIES BUDGET OFFICE,
40 the chair and ranking minority member of the senate finance committee,
41 the chair and ranking minority member of the assembly ways and means
42 committee, and each chair and ranking member of the assembly and senate
43 committees on corporations, authorities and commissions a report on the
44 subsidiary public benefit corporation. Such report shall include for
45 each subsidiary:

46 S 8. Subdivision 1 and paragraph (a) of subdivision 8 of section 2879
47 of the public authorities law, subdivision 1 as amended by chapter 564
48 of the laws of 1988 and paragraph (a) of subdivision 8 as amended by
49 chapter 844 of the laws of 1992, are amended to read as follows:

50 1. Every [public] STATE AND LOCAL authority and public benefit corpo-
51 ration, [a majority of the members of which consist of persons either
52 appointed by the governor or who serve as members by virtue of holding a
53 civil office of the state, or a combination thereof,] (such entities to
54 be hereinafter in this section referred to as "corporation") shall adopt
55 by resolution comprehensive guidelines which detail the corporation's
56 operative policy and instructions regarding the use, awarding, monitor-

ing and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

(a) Each corporation shall [annually] submit WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR its report on procurement contracts to the division of the budget AND THE AUTHORITIES BUDGET OFFICE and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee.

S 9. Subdivision 3 of section 2896 of the public authorities law, as amended by chapter 506 of the laws of 2009, is amended to read as follows:

3. a. Each [public] STATE AND LOCAL authority shall [publish, not less frequently than annually] PREPARE WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR AS PART OF THE ANNUAL REPORT PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THIS ARTICLE, a report listing all real property of the [public] STATE AND LOCAL authority. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the [public] STATE AND LOCAL authority and the name of the purchaser for all such property sold by the [public] STATE AND LOCAL authority during such period AND SUCH OTHER INFORMATION AS REQUIRED BY THE AUTHORITIES BUDGET OFFICE.

b. The [public] STATE OR LOCAL authority shall deliver copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature and the authorities budget office.

S 10. Paragraphs (a) and (b) of subdivision 7 of section 2925 of the public authorities law, as added by chapter 838 of the laws of 1983, are amended to read as follows:

(a) Each corporation, a majority of the members of which consist of persons appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, shall [annually] submit WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR its investment report to the division of the budget AND THE AUTHORITIES BUDGET OFFICE and copies thereof to the department of audit and control, the senate finance committee and the assembly ways and means committee.

(b) Each corporation, other than a corporation included under paragraph (a) of this subdivision, shall [annually] submit WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR its investment report to the chief executive officer and chief fiscal officer of each municipality for the benefit of which it was created and to the department of audit and control AND THE AUTHORITIES BUDGET OFFICE.

S 11. Subdivision 2 of section 561-a of the general municipal law, as added by chapter 681 of the laws of 1963, is amended to read as follows:

2. Within [sixty] NINETY days after the close of the fiscal year, an agency shall submit an annual report of its financial condition to the commissioner, THE AUTHORITIES BUDGET OFFICE and to the state comptroller. The report shall be in such form as the comptroller shall require. The commissioner or the comptroller may require additional information from the agency or any officer thereof at any time.

S 12. Section 859 of the general municipal law, as added by chapter 692 of the laws of 1989, paragraph (b) and the opening paragraph and subparagraph (v) of paragraph (e) of subdivision 1 as amended by chapter 357 of the laws of 1993, paragraph (e) of subdivision 1 and subdivision 3 as added and subdivision 2 as amended by chapter 356 of the laws of 1993 and paragraph (f) of subdivision 1 as added by section 28 of part A3 of chapter 62 of the laws of 2003, is amended to read as follows:

1 S 859. Financial records. 1. (a) Each agency shall maintain books and
2 records in such form as may be prescribed by the state comptroller.

3 (b) Within ninety days following the close of its fiscal year, each
4 agency or authority shall prepare a financial statement for that fiscal
5 year in such form as may be prescribed by the state comptroller. Such
6 statement shall be audited within such ninety day period by an independ-
7 ent certified public accountant in accordance with government accounting
8 standards established by the United States general accounting office.
9 The audited financial statement shall include supplemental schedules
10 listing all straight-lease transactions and bonds and notes issued,
11 outstanding or retired during the applicable accounting period whether
12 or not such bonds, notes or transactions are considered obligations of
13 the agency. For each issue of bonds or notes such schedules shall
14 provide the name of each project financed with proceeds of each issue,
15 and whether the project occupant is a not-for-profit corporation, the
16 name and address of each owner of each project, the estimated amount of
17 tax exemptions authorized for each project, the purpose for which each
18 bond or note was issued, date of issue, interest rate at issuance and if
19 variable the range of interest rates applicable, maturity date, federal
20 tax status of each issue, and an estimate of the number of jobs created
21 and retained by each project. For each straight-lease transaction, such
22 schedules shall provide the name of each project, and whether the
23 project occupant is a not-for-profit corporation, the name and address
24 of each owner of each project, the estimated amount of tax exemptions
25 authorized for each project, the purpose for which each transaction was
26 made, the method of financial assistance utilized by the project, other
27 than the tax exemptions claimed by the project and an estimate of the
28 number of jobs created and retained by each project.

29 (c) Within [thirty] NINETY days after [completion] THE END OF THE
30 FISCAL YEAR, a copy of the audited financial statement shall be trans-
31 mitted to the commissioner of the department of economic development,
32 THE AUTHORITIES BUDGET OFFICE, the state comptroller and the governing
33 body of the municipality for whose benefit the agency was created.

34 (d) An agency, OTHER THAN AN AGENCY THAT CEASES TO EXIST PURSUANT TO
35 SECTION EIGHT HUNDRED EIGHTY-TWO OF THIS TITLE, with no bonds or notes
36 issued or outstanding and no projects during the applicable accounting
37 period may apply to the state comptroller for a waiver of the required
38 audited financial statement. Application shall be made on such form as
39 the comptroller may prescribe. A WAIVER GRANTED PURSUANT TO THIS PARA-
40 GRAPH SHALL NOT APPLY TO ANY FILING REQUIREMENT IMPOSED ON AN AGENCY BY
41 OR PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THE PUBLIC AUTHORITIES
42 LAW.

43 (e) If an agency or authority shall fail to file or substantially
44 complete, as determined by the state comptroller, the financial state-
45 ment required by this section, the state comptroller shall provide
46 notice to the agency or authority. The notice shall state the following:

47 (i) that the failure to file a financial statement as required is a
48 violation of this section, or in the case of an insufficient financial
49 statement, the manner in which the financial statement submitted is
50 deficient;

51 (ii) that the agency or authority has thirty days to comply with this
52 section or provide an adequate written explanation to the comptroller of
53 the agency's or authority's reasons for the inability to comply; and

54 (iii) that the agency's or authority's failure to provide either the
55 required financial statement or an adequate explanation will result in
56 the notification of the chief executive officer of the municipality for

1 whose benefit the agency or authority was created of the agency's
2 noncompliance with this section. Where such agency or authority has
3 failed to file the required statement, the comptroller shall addi-
4 tionally notify the agency or authority that continued failure to file
5 the required statement may result in loss of the agency's or authority's
6 authority to provide exemptions from state taxes.

7 (iv) If an agency or authority after thirty days has failed to file
8 the required statement or the explanation in the manner required by
9 subparagraph (i) of this paragraph, or provides an insufficient explana-
10 tion, the comptroller shall notify the chief executive officer of the
11 municipality for whose benefit the agency or authority was created and
12 the agency of the agency's or authority's noncompliance with this
13 section. Such notice from the state comptroller shall further delineate
14 in what respect the agency or authority has failed to comply with this
15 section. If the agency or authority has failed to file the required
16 statement, the notice shall additionally state that continued failure to
17 file the required statement may result in loss of the agency's or
18 authority's authority to provide exemptions from state taxes.

19 (v) If, thirty days after notification of the chief executive officer
20 of the municipality for whose benefit the agency or authority was
21 created of the agency's or authority's noncompliance, the agency or
22 authority fails to file the required statement, the comptroller shall
23 notify the chief executive officer of the municipality for whose benefit
24 that agency or authority was created and the agency or authority that if
25 such report is not provided within sixty days, that the agency or
26 authority will no longer be authorized to provide exemptions from state
27 taxes.

28 (vi) If, sixty days after the notification required by subparagraph
29 (v) of this paragraph, the comptroller has not received the required
30 statement, the agency or authority shall not offer financial assistance
31 which provides exemptions from state taxes until such financial state-
32 ment is filed and the comptroller shall so notify the agency or authori-
33 ty and the chief executive officer of the municipality for whose benefit
34 the agency was created. Provided, however, that nothing contained in
35 this paragraph shall be deemed to modify the terms of any existing
36 agreements.

37 (f) Within thirty days after completion, a copy of an audited finan-
38 cial statement which contains transactions of or bonds or notes of civic
39 facilities as defined in paragraph (b) of THE FORMER subdivision thir-
40 teen of section eight hundred fifty-four of this article, shall be tran-
41 smitted by the agency to the commissioner of health, the chair of the
42 senate finance committee, the chair of the assembly ways and means
43 committee, the chair of the senate health committee and the chair of the
44 assembly health committee.

45 2. On or before September first of each year, the commissioner of the
46 department of economic development shall prepare and submit to the
47 governor, speaker of the assembly, majority leader of the senate, THE
48 DIRECTOR OF THE AUTHORITIES BUDGET OFFICE, and the state comptroller, a
49 report setting forth a summary of the significant trends in operations
50 and financing by agencies and authorities; departures from acceptable
51 practices by agencies and authorities; a compilation by type of the
52 bonds and notes outstanding; a compilation of all outstanding straight-
53 lease transactions; an estimate of the total number of jobs created and
54 retained by agency or authority projects; and any other information
55 which in the opinion of the commissioner bears upon the discharge of the
56 statutory functions of agencies and authorities.

1 3. On or before April first, nineteen hundred ninety-six, the commis-
2 sioner shall submit to the director of the division of the budget, THE
3 DIRECTOR OF THE AUTHORITIES BUDGET OFFICE, the temporary president of
4 the senate, the speaker of the assembly, the chairman of the senate
5 finance committee, the chairman of the assembly ways and means commit-
6 tee, the chairman of the senate local government committee, the chairman
7 of the senate committee on commerce, economic development and small
8 business, the chairman of the assembly committee on commerce, industry
9 and economic development, the chairman of the assembly local governments
10 committee [and], the chairman of the assembly real property taxation
11 committee, THE CHAIR OF THE SENATE COMMITTEE ON CORPORATIONS, AUTHORI-
12 TIES AND COMMISSIONS, AND THE CHAIR OF THE ASSEMBLY COMMITTEE ON CORPO-
13 RATIONS, AUTHORITIES AND COMMISSIONS an evaluation of the activities of
14 industrial development agencies and authorities in the state prepared by
15 an entity independent of the department. Such evaluation shall identify
16 the effect of agencies and authorities on: (a) job creation and
17 retention in the state, including the types of jobs created and
18 retained; (b) the value of tax exemptions provided by such agencies and
19 authorities; (c) the value of payments received in lieu of taxes
20 received by municipalities and school districts as a result of projects
21 sponsored by such entities; (d) a summary of the types of projects that
22 received financial assistance; (e) a summary of the types of financial
23 assistance provided by the agencies and authorities; (f) a summary of
24 criteria for evaluation of projects used by agencies and authorities;
25 (g) a summary of tax exemption policies of agencies and authorities; and
26 (h) such other factors as may be relevant to an assessment of the
27 performance of such agencies and authorities in creating and retaining
28 job opportunities for residents of the state. Such evaluation shall also
29 assess the process by which agencies and authorities grant exemptions
30 from state taxes and make recommendations for the most efficient and
31 effective procedures for the use of such exemptions. Such evaluation
32 shall further include any recommendations for changes in laws governing
33 the operations of industrial development agencies and authorities which
34 would enhance the creation and retention of jobs in the state.
35 S 13. This act shall take effect immediately.