

STATE OF NEW YORK

3774

2017-2018 Regular Sessions

IN ASSEMBLY

January 30, 2017

Introduced by M. of A. DINOWITZ -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the department of public service; and to amend the public authorities law, in relation to the power authority of the state of New York

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

1 Section 1. This act shall be known and may be cited as the "Power
2 Authority of the State of New York oversight and accountability act".

3 § 2. The opening paragraph of section 3 of the public service law is
4 designated subdivision 1 and a new subdivision 2 is added to read as
5 follows:

6 2. The department shall, upon notification to the power authority of
7 the state of New York, undertake a comprehensive and regular management
8 and operations audit of said authority pursuant to subdivision twenty-
9 six of section one thousand five of the public authorities law. The
10 department shall have discretion to have such an audit performed by its
11 staff, or by an independent contractor. In every case in which an audit
12 is required pursuant to subdivision twenty-six of section one thousand
13 five of the public authorities law performed by an independent auditor,
14 the department shall have the authority to select the auditor, and to
15 require the power authority of the state of New York to enter into a
16 contract with the auditor that is consistent with the contracting-relat-
17 ed requirements specified in subdivision nineteen of section sixty-six
18 of this chapter and the requirements of subdivision twenty-six of
19 section one thousand five of the public authorities law. Such contract
20 shall provide further that the auditor shall work for and under the
21 direction of the department according to such terms as the department
22 may determine are necessary and reasonable.

23 § 3. Section 1005 of the public authorities law is amended by adding a
24 new subdivision 26 to read as follows:

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

LBD07579-01-7

1 26. Comprehensive and regular management and operations audits. (a)
2 The authority shall cooperate in the undertaking and completion of a
3 regular and comprehensive management and operations audit conducted
4 pursuant to the requirements of this subdivision. Such audit shall
5 review and evaluate the authority's overall operations and management,
6 including, but not be limited to: (i) the authority's construction and
7 capital program planning in relation to the needs of its customers for
8 reliable service; (ii) the overall efficiency of the authority's oper-
9 ations; (iii) the manner in which the authority is meeting its debt
10 service obligations; (iv) the authority's annual budgeting procedures
11 and process; (v) the authority's compliance with debt covenants; (vi)
12 the implementation of recharge New York power program pursuant to subdi-
13 vision thirteen-a of this section; (vii) the implementation and efficacy
14 of the energy efficiency program pursuant to paragraph (c) of subdivi-
15 sion thirteen-b of this section; (viii) the implementation of the energy
16 efficiency projects program pursuant to subdivision seventeen of this
17 section; and (ix) such other services, operations and finances of the
18 authority as the commission shall deem advisable.

19 (b) The department of public service shall notify the authority that
20 said department is in the process of initiating a comprehensive manage-
21 ment and operations audit as described in paragraph (a) of this subdivi-
22 sion in a manner that ensures the timeliness of such audit, and in
23 accordance with the following timeframe: the first comprehensive manage-
24 ment and operations audit shall be initiated as of the effective date of
25 this subdivision; the second comprehensive management and operations
26 audit shall be initiated no later than December fifteenth, two thousand
27 twenty-one; and all additional comprehensive management and operations
28 audits shall be initiated at least once every five years thereafter.
29 Within a reasonable time after such notification to the authority, said
30 department or the independent auditor retained by the authority to
31 undertake such audit shall hold public statement hearings, with proper
32 notice, in each judicial department in the state for the purpose of
33 receiving both oral and written comments from the public on matters
34 related to such audit as described in paragraph (a) of this subdivision.

35 (c) Each such audit shall be completed within eighteen months of
36 initiation unless an extension is granted for good cause shown by the
37 department of public service or the independent auditor under contract
38 with the authority with notice of such extension to the governor, the
39 temporary president of the senate, the speaker of the assembly, and the
40 chairs of the authority and the department of public service. Such audit
41 shall be provided to the board of the authority immediately upon its
42 completion. The department of public service shall provide notice of
43 completion of such audit to the governor, the temporary president of the
44 senate, the speaker of the assembly, and the minority leaders of the
45 senate and assembly, and the authority, upon receipt of such audit,
46 shall post a copy of such audit, including findings and recommendations,
47 on its website. Unless the board of the authority makes a preliminary
48 determination that any particular finding or recommendation contained in
49 such audit is inconsistent with the authority's sound fiscal operating
50 practices, any existing contractual or operating obligation, or the
51 provision for safe and adequate service, the board shall implement such
52 findings and recommendations in accordance with the timeframe specified
53 under such audit.

54 (d) The board of the authority shall make any preliminary determi-
55 nation of inconsistency with respect to any such finding or recommenda-
56 tion within thirty days of receipt of the audit, with notice and the

basis of such determination being provided to the department of public service. Such notice and basis shall be posted contemporaneously on the authority's website and the board shall, within thirty days of such posting and with due advance notice to the public, hold a public hearing with respect to its preliminary determination of inconsistency. At such hearing the department of public service or the independent auditor responsible for undertaking such audit shall present the basis for its findings and recommendations and the board shall present the basis for its determination of inconsistency. The authority and auditor may during the time period prior to such public hearing reach agreement on disputed issues. Within thirty days after such public hearing, the board of the authority shall announce its final determination and planned implementations with respect to any such findings and/or recommendations. The board's final determination of inconsistency shall be subject to any applicable judicial review proceeding, including review available under article seventy-eight of the civil practice law and rules.

§ 4. This act shall take effect immediately.