

# 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.

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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.