

STATE OF NEW YORK

9214

IN ASSEMBLY

February 9, 2022

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

AN ACT to amend the canal law and the state finance law, in relation to providing for the transfer of powers and duties relating to canals and canal lands from the power authority of the state of New York to the canal recreationway commission; and to repeal certain provisions of the public authorities law relating thereto

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

1 Section 1. The article heading of article 1-A of the canal law, as
2 amended by section 15 of part TT of chapter 54 of the laws of 2016, is
3 amended to read as follows:

4 TRANSFER TO [~~POWER AUTHORITY OF THE STATE OF NEW YORK~~] CANAL
5 RECREATIONWAY COMMISSION

6 § 2. Section 5 of the canal law, as amended by section 16 of part TT
7 of chapter 54 of the laws of 2016, is amended to read as follows:

8 § 5. Transfer of powers and duties relating to canals and canal lands
9 to the [~~power authority of the state of New York~~] canal recreationway
10 commission. The powers and duties of the [~~thruway~~] authority relating to
11 the New York state canal system as set forth in articles one through and
12 including fourteen, except article seven, of this chapter, and except
13 properties in use on the effective date of this article in support of
14 highway maintenance, equipment management and traffic signal operations
15 of the department of transportation, heretofore transferred by the
16 commissioner of transportation to the thruway authority, and subsequent-
17 ly the authority, are hereby transferred to and merged with the [~~author-~~
18 ~~ity~~] commission, to be exercised by the [~~authority~~] commission directly
19 [~~or through the canal corporation~~] on behalf of the people of the state
20 of New York. In addition, the commissioner of transportation and the
21 chair of the authority or his or her designee may, in their discretion,
22 enter into an agreement or agreements transferring the powers and duties
23 of the commissioner of transportation relating to any or all of the
24 bridges and highways as set forth in article seven of this chapter, to
25 be exercised by the [~~authority directly or through the canal corpo-~~

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

LBD14138-01-1

1 ~~ration~~] commission on behalf of the people of the state of New York,
2 and, as determined to be feasible and advisable by the [~~authority's~~
3 ~~trustees~~] members of the commission, shall enter into an agreement or
4 agreements [~~directly or through the canal corporation~~] for the financ-
5 ing, construction, reconstruction or improvement of lift and movable
6 bridges on the canal system. [~~Such powers shall be in addition to other~~
7 ~~powers enumerated in title one of article five of the public authorities~~
8 ~~law. All of the provisions of title one of article five of such law~~
9 ~~which are not inconsistent with this chapter shall apply to the actions~~
10 ~~and duties of the authority pursuant to this chapter.~~] The [~~authority~~]
11 commission shall be deemed to be the state in exercising the powers and
12 duties transferred pursuant to this section but for no other purposes.

13 § 3. Sections 1005-b, 1005-c and 1005-d of the public authorities law
14 are REPEALED.

15 § 4. Subdivisions 2 and 5 of section 92-u of the state finance law, as
16 amended by section 19 of part TT of chapter 54 of the laws of 2016, are
17 amended to read as follows:

18 2. Such fund shall consist of a deposit into the fund on January
19 first, two thousand twenty-three by the New York power authority of an
20 amount equal to all its expenses incurred in two thousand nineteen
21 related to its obligations regarding New York state's canal system,
22 including all operational, maintenance, capital, and economic develop-
23 ment monies expended or obligated, and on each January first thereafter
24 until January first, two thousand twenty-eight, at which time an amount
25 equal to eighty percent of all its expenses incurred in two thousand
26 nineteen related to its obligations regarding New York state's canal
27 system shall be deposited, after which such deposit will decrease by ten
28 percent each January first until the amount which shall be deposited
29 into the fund by the power authority on January first, two thousand
30 thirty-six shall be zero dollars, all revenues received from the opera-
31 tion of the New York state canal system as defined in [~~section three~~
32 ~~hundred fifty-one of the public authorities law and~~] section two of the
33 canal law, including payments on leases for use of canal lands, termi-
34 nals and terminal lands, tolls received for lock and lift bridge
35 passage, payments for hydroelectric easements and sales, for purchase of
36 other abandoned canal lands, payments for any permits and leases for use
37 of the water and lands of the system and payments for use of dry docks
38 and other moneys made available to the fund from any other source other
39 than a grant, loan or other inter-corporate transfer of funds of the
40 power authority of the state of New York, and any income earned by, or
41 incremental to, the fund due to investment thereof, or any repayment of
42 any moneys advanced by the fund.

43 5. Moneys of the fund, following appropriation by the legislature,
44 shall be available to the [~~power authority of the state of~~] New York
45 state canal recreationway commission and shall be expended [~~by such~~
46 ~~authority or the canal corporation~~] only for the maintenance,
47 construction, reconstruction, development or promotion of the canal
48 system.

49 In addition, moneys of the fund may be used for the purposes of inter-
50 pretive signage and promotion for appropriate historically significant
51 Erie canal lands and related sites or for other historic preservation
52 initiatives deemed appropriate by the commission. Moneys shall be paid
53 out of the fund jointly by the state comptroller [~~on certificates issued~~
54 ~~by the director of the budget~~] and the commission.

55 § 5. The canal law is amended by adding a new section 138-d to read as
56 follows:

1 § 138-d. Canal recreationway commission; additional powers. 1. The
2 public benefit corporation known as the "New York state canal corpo-
3 ration" (hereinafter referred to as the "canal corporation") created
4 pursuant to chapter seven hundred sixty-six of the laws of nineteen
5 hundred ninety-two and continued and reconstituted as a subsidiary
6 corporation of the power authority of the state of New York pursuant to
7 subdivision one of former section one thousand five-b of the public
8 authorities law is hereby discontinued with its responsibilities,
9 mission, assets, debts, civil service personnel, contracts, and obli-
10 gations transferred intact to the canal recreationway commission (here-
11 inafter referred to as the "commission") created pursuant to section one
12 hundred thirty-eight-a of this article.

13 2. In addition to the powers and duties enumerated in section one
14 hundred thirty-eight-b of this article, the commission shall have the
15 power to operate, maintain, construct, reconstruct, improve, develop,
16 finance, and promote all of the canals, canal lands, feeder canals,
17 reservoirs, canal terminals, canal terminal lands and other property
18 under the jurisdiction of the canal corporation pursuant to article
19 one-A of the canal law (hereinafter referred to as the "canal system").
20 Reference in any provision of law, general, special or local, or in any
21 rule, regulation or public document to the canal corporation or the
22 canal corporation as a subsidiary of the New York state thruway authori-
23 ty or the New York power authority shall be deemed to be and construed
24 as a reference to the commission.

25 3. Exclusive jurisdiction is conferred upon the court of claims to
26 hear and determine the claims of any person against the commission (a)
27 for its tortious acts and those of its agents, and (b) for breach of a
28 contract, relating to construction, reconstruction, improvement, mainte-
29 nance or operation, in the same manner and to the extent provided by and
30 subject to the provisions of the court of claims act with respect to
31 claims against the state, and to make awards and render judgments there-
32 for. All awards and judgments arising from such claims shall be paid out
33 of moneys of the canal development fund pursuant to section ninety-two-u
34 of the state finance law.

35 4. No officer or member of the commission shall receive any additional
36 compensation, either direct or indirect, other than reimbursement for
37 actual and necessary expenses incurred in the performance of his or her
38 duties, by reason of his or her serving as an employee, member or offi-
39 cer of the commission.

40 5. Any employee of the canal corporation who at the time of such
41 transfer shall have been in a negotiating unit represented by an employ-
42 ee organization which was certified or recognized pursuant to article
43 fourteen of the civil service law shall be transferred to the commission
44 with no break in service and with all rights and privileges intact and
45 will continue to be represented by said employee organization. All
46 officers and employees of the commission shall be subject to the
47 provisions of the civil service law which shall apply to the commission
48 and such commission shall be subject to the jurisdiction of the New York
49 state department of civil service and the New York state civil service
50 commission. The commission shall participate in the New York state and
51 local employees' retirement system. Nothing contained in the chapter of
52 the laws of two thousand twenty-two that added this section shall be
53 construed to affect the rights and privileges of the canal corporation
54 or any of its employees under any provisions of the civil service law or
55 any existing or expired collective bargaining agreement in effect as of
56 the effective date of elimination of the canal corporation and transfer

1 of its obligations to the commission. Any such employee who at the time
2 of such transfer shall have been in a negotiating unit represented by an
3 employee organization which was certified or recognized pursuant to
4 article fourteen of the civil service law shall continue to be repres-
5 ented by said employee organization. There shall be no reduction of
6 staff, loss of position, including partial displacement, such as
7 reduction in the hours of non-overtime, wages, or employment benefits as
8 a result of the elimination of the canal corporation and transfer of its
9 obligations to the commission for five years following such transfer.

10 6. The fiscal year of the commission shall be the same as the fiscal
11 year for New York state.

12 7. The commission shall have the power to:

13 (a) operate, maintain, construct, reconstruct, improve, develop,
14 finance, and promote the canal system;

15 (b) sue and be sued;

16 (c) have a seal and alter the same at pleasure;

17 (d) make and alter by-laws for its organization and internal manage-
18 ment and make rules and regulations governing the use of its property
19 and facilities;

20 (e) appoint officers and employees and fix their compensation;

21 (f) make and execute contracts and all other instruments necessary or
22 convenient for the exercise of its powers and functions under this chap-
23 ter;

24 (g) acquire, hold, and dispose of real or personal property for its
25 corporate purposes;

26 (h) engage the services of private consultants on a contract basis for
27 rendering professional and technical assistance and advice;

28 (i) procure insurance against any loss in connection with its activ-
29 ities, properties, and other assets, in such amount and from such insur-
30 ers as it deems desirable;

31 (j) invest any funds of the canal development fund, or any other
32 monies under its custody and control not required for immediate use or
33 disbursement, at the discretion of the canal corporation, in obligations
34 of the state or the United States government or obligations the princi-
35 pal and interest of which are guaranteed by the state or the United
36 States government, or in any other obligations in which the comptroller
37 of the state is authorized to invest pursuant to section ninety-eight-a
38 of the state finance law;

39 (k) prepare and submit a capital program plan pursuant to section ten
40 of the canal law;

41 (l) enter on any lands, waters, or premises for the purpose of making
42 surveys;

43 (m) accept any gifts or any grant of funds or property from the feder-
44 al government or from the state or any other federal or state public
45 body or political subdivision or any other person and to comply with the
46 terms and conditions thereof; and

47 (n) waive any fee for a work permit which it has the power to issue if
48 in its discretion the project which is subject to a work permit would
49 add value to canal lands without any cost to the commission or the
50 state.

51 8. The commission, on or before the fifteenth day of December of each
52 year, shall submit to the director of the budget a request for the
53 expenditure of funds available from the New York state canal system
54 development fund pursuant to section ninety-two-u of the state finance
55 law or available from any other non-federal sources appropriated from
56 the state treasury.

1 9. The commission may do any and all things necessary or convenient to
2 carry out and exercise the powers given and granted by this section.

3 10. The commission shall prepare an implementation plan for the trans-
4 fer of the canal corporation's obligations from the power authority to
5 the commission no later than January first, two thousand twenty-three.
6 Such implementation plan shall include a requirement that the rights and
7 privileges of all employees under existing collective bargaining agree-
8 ments shall not be adversely impacted at the time of transfer, and a
9 report on the status of relevant collective bargaining agreements and
10 the preservation and maintenance of economic development programs and
11 projects funded by the power authority such as the "Reimagine our
12 Canals" initiative.

13 § 6. Subdivision 21 of section 2 of the canal law, as amended by
14 section 14 of part TT of chapter 54 of the laws of 2016, is amended to
15 read as follows:

16 21. "Corporation" and "canal corporation" shall mean the New York
17 state canal corporation, a public benefit corporation created pursuant
18 to chapter seven hundred sixty-six of the laws of nineteen hundred nine-
19 ty-two and continued and reconstituted as a subsidiary corporation of
20 the power authority of the state of New York pursuant to subdivision one
21 of section one thousand five-b of the public authorities law. Beginning
22 on the effective date of the chapter of the laws of two thousand twen-
23 ty-two that amended this subdivision, "corporation" and "canal corpo-
24 ration" shall mean the commission.

25 § 7. This act shall take effect immediately.