

STATE OF NEW YORK

7082

2021-2022 Regular Sessions

IN SENATE

May 27, 2021

Introduced by Sen. BRESLIN -- 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, in relation to updating certain references with respect to the Troy Industrial Development Authority, eliminating an automatic corporate termination clause when all bonds have been repaid, allowing the Troy Industrial Development Authority to deposit and manage its own funds and accounts, adding certain retail restrictions and making certain technical corrections

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

1 Section 1. Subdivision 1 of section 1951 of the public authorities
2 law, as added by chapter 759 of the laws of 1967, is amended to read as
3 follows:
4 1. The term "authority" shall mean the Troy Industrial Development
5 Authority, the corporation created by section nineteen hundred [~~two~~
6 fifty-two] of this title;
7 § 2. Section 1952 of the public authorities law, as separately amended
8 by chapters 195 and 357 of the laws of 1993, is amended to read as
9 follows:
10 § 1952. Troy industrial development authority. A board to be known as
11 the "Troy industrial development authority" is hereby created. Such
12 board shall be a body corporate and politic, constituting a public bene-
13 fit corporation and its existence shall commence upon the appointment of
14 the members as herein provided. Its members shall consist of a [~~chair-~~
15 ~~man~~] chair and eight other members, all of whom shall be appointed by
16 the [~~city manager~~] mayor of the city for a term of three years, and
17 shall include two members of the common council of the city, one repre-
18 sentative of the city school board, and one representative from each of
19 the fields of business, industry and labor. Every appointment to the
20 board shall be subject to confirmation by the common council of the

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

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1 city. The [~~chairman~~] chair and each member shall continue to serve until
2 the appointment and confirmation of his or her successor. Vacancies in
3 such board occurring otherwise than by expiration of term shall be
4 filled by the [~~city manager~~] mayor by appointment for the unexpired term
5 subject to confirmation by the common council of the city. The [~~city~~
6 ~~manager~~] mayor may remove the [~~chairman~~] chair or any member of the
7 board for inefficiency, neglect of duty or misconduct in office, after
8 giving him or her a copy of the charges against him or her and an oppor-
9 tunity of being heard in person, or by counsel, in his or her defense
10 upon not less than ten days' notice. Such removal must be approved by
11 the city council of the city. The members of the board shall be entitled
12 to no compensation for their services but shall be entitled to
13 reimbursement for their actual and necessary expenses incurred in the
14 performance of their official duties. Notwithstanding any inconsistent
15 provisions of law, general, special or local, no officer or employee of
16 the city shall be deemed to have forfeited or shall forfeit his or her
17 office or employment by reason of his or her acceptance of membership on
18 the board created by this section, provided, however, that a member who
19 holds such other public office or employment shall receive no additional
20 compensation or allowance for services rendered pursuant to this title,
21 but shall be entitled to reimbursement for his or her actual and neces-
22 sary expenses incurred in the performance of such services. The power of
23 the authority shall be vested in and exercised by a majority of the
24 members of the board. Such a board may delegate to one or more of its
25 members, or to its officers, agents and employees, such powers and
26 duties as it may deem proper. Such board and its corporate existence
27 shall continue [~~until July first, nineteen hundred ninety eight and~~
28 ~~thereafter until all its liabilities have been met and its bonds have~~
29 ~~been paid in full or such liabilities or bonds have otherwise been~~
30 ~~discharged~~] in accordance with section nineteen hundred sixty-seven of
31 this title. Upon its ceasing to exist, all rights and properties shall
32 pass to and be vested in the city.

33 § 3. The opening paragraph of section 1953 of the public authorities
34 law, as amended by chapter 907 of the laws of 1972, is amended to read
35 as follows:

36 The purposes of the authority shall be to promote, develop, encourage
37 and assist in the acquiring, constructing, reconstructing, improving,
38 maintaining, equipping and furnishing industrial, manufacturing, ware-
39 house, [~~and~~] commercial and research facilities including industrial
40 pollution control facilities, transportation facilities including but
41 not limited to those relating to water, highway, rail and air, in one or
42 more areas of the city, particularly but not exclusively at the site of
43 what was formerly the Troy airport including an airstrip or airport
44 located in the southern section of the city and thereby advance the job
45 opportunities, health, general prosperity and economic welfare of the
46 people of said city and to improve their standard of living; provided,
47 however, that the authority shall not undertake any project if the
48 completion thereof would result in the removal of an industrial or manu-
49 facturing plant of the project occupant from one area of the state to
50 another area of the state or in the abandonment of one or more plants or
51 facilities of the project applicant located within the state, provided,
52 however, that neither restriction shall apply if the authority shall
53 determine on the basis of the application before it that the project is
54 reasonably necessary to discourage the project occupant from removing
55 such other plant or facility to a location outside the state or is
56 reasonably necessary to preserve the competitive position of the project

1 occupant in its respective industry. Except as otherwise provided for in
2 this section, no financial assistance of the authority shall be provided
3 in respect of any project where facilities or property that are primari-
4 ly used in making retail sales to customers who personally visit such
5 facilities constitute more than one-third of the total project cost. For
6 the purposes of this article, "retail sales" shall mean: (i) sales by a
7 registered vendor under article twenty-eight of the tax law primarily
8 engaged in the retail sale of tangible personal property, as defined in
9 subparagraph (i) of paragraph four of subdivision (b) of section eleven
10 hundred one of the tax law; or (ii) sales of a service to such custom-
11 ers. Except, however, that tourism destination projects shall not be
12 prohibited by this paragraph. For the purpose of this paragraph, "tour-
13 ism destination" shall mean a location or facility which is likely to
14 attract a significant number of visitors from outside the economic
15 development region as established by section two hundred thirty of the
16 economic development law in which the project is located.

17 Notwithstanding the provisions of this section to the contrary, such
18 financial assistance may, however, be provided to a project where facil-
19 ities or property that are primarily used in making retail sales of
20 goods or services to customers who personally visit such facilities to
21 obtain such goods or services constitute more than one-third of the
22 total project cost, where: (i) the predominant purpose of the project
23 would be to make available goods or services which would not, but for
24 the project, be reasonably accessible to the residents of the city of
25 Troy because of a lack of reasonably accessible retail trade facilities
26 offering such goods or services; or (ii) the project is located in a
27 highly distressed area. With respect to projects authorized pursuant to
28 this paragraph no project shall be approved unless the authority shall
29 find after the public hearing required by section twenty-three hundred
30 seven of this chapter that undertaking the project will serve the public
31 purposes of this article by preserving permanent, private sector jobs or
32 increasing the overall number of permanent, private sector jobs in the
33 state. Where the authority makes such a finding, prior to providing
34 financial assistance to the project by the authority, the chief execu-
35 tive officer of the city of Troy shall confirm the proposed action of
36 the authority. To carry out said purposes, the authority shall have
37 power:

38 § 4. Subdivisions 4 and 7 of section 1953 of the public authorities
39 law, as added by chapter 759 of the laws of 1967, are amended to read as
40 follows:

41 4. To acquire by purchase, grant, lease, gift, condemnation, or other-
42 wise and to use, real property or rights or easements therein necessary
43 for its corporate purposes, and to sell, convey, mortgage, lease,
44 pledge, exchange or otherwise dispose of any such property in such
45 manner as the authority shall determine. With respect to real property
46 conveyed to it by the city, however, such power of disposition shall be
47 limited as hereinafter provided in section nineteen hundred [~~five~~]
48 fifty-five of this title;

49 7. To appoint officers, agents and employees, to prescribe their qual-
50 ifications and to fix their compensation and to pay the same out of
51 funds of the authority, subject, however, to the provisions of the civil
52 service law as hereinafter provided in section nineteen hundred [~~and~~
53 ~~four~~] fifty-four of this title;

54 § 5. Subdivision 1 of section 1955 of the public authorities law, as
55 added by chapter 759 of the laws of 1967, is amended to read as follows:

1 1. The city may, by duly adopted resolution of the city council or by
2 instruments authorized by such resolution, convey, with or without
3 consideration, to the authority real and personal property owned by the
4 city for use by the authority as a project. In case of real property so
5 conveyed, the title thereto shall remain in the city but the authority
6 shall have the use thereof for so long as its corporate existence shall
7 continue and said real property shall be under its jurisdiction, control
8 and supervision within the ambit of section nineteen hundred [~~thirteen~~
9 sixty-three] of this title and exempt from all taxes and assessments
10 except such payments in lieu thereof as may be contained in such resolu-
11 tion or instrument of conveyance.

12 § 6. Section 1956 of the public authorities law, as amended by chapter
13 907 of the laws of 1972, is amended to read as follows:

14 § 1956. Construction and purchase contracts. The provisions of law
15 relating to the requirement of public bidding with respect to the
16 construction of public facilities or projects shall not be applicable to
17 the acquisition, construction, reconstruction, improvement, maintenance,
18 equipping and furnishing of projects authorized by this [~~act~~] title.

19 § 7. Section 1957 of the public authorities law, as amended by chapter
20 907 of the laws of 1972, is amended to read as follows:

21 § 1957. Moneys of the authority. All moneys of the authority, from
22 whatever source derived, shall be paid to the [~~treasurer~~] authority's
23 appointed chief financial officer of the city as agent of the authority,
24 who shall not commingle such moneys with any other moneys. Such moneys
25 shall be deposited in a separate bank account or accounts. The moneys in
26 such accounts shall be paid out by the [~~treasurer~~] authority's appointed
27 chief financial officer on requisition of the [~~chairman~~] chair of the
28 authority or of such person as the authority may authorize to make such
29 requisitions [~~after audit by and upon the warrant of the comptroller~~].
30 All deposits of such moneys shall, if required by the [~~treasurer or the~~]
31 authority, be secured by obligations of a market value equal at all
32 times to the amount of the deposit, and all banks and trust companies
33 are authorized to give such security for such deposits. The [~~treasurer~~]
34 comptroller of the city and his or her legally authorized represen-
35 tatives are authorized and empowered from time to time to examine the
36 accounts and books of the authority, including its receipts, disburse-
37 ments, contracts, leases, sinking funds, investments and any other
38 records and papers relating to its financial standing. The authority
39 shall have power, notwithstanding the provisions of this section, to
40 contract with the holders of any of its bonds as to the custody,
41 collection, securing, investment and payment of any moneys of the
42 authority or any moneys held in trust or otherwise for the payment of
43 bonds or in any way to secure bonds, and to carry out any such contract
44 notwithstanding that such contract may be inconsistent with the previous
45 provisions of this section. Moneys held in trust or otherwise for the
46 payment of bonds or in any way to secure bonds and deposits of such
47 moneys may be secured in the same manner as moneys of the authority, and
48 all banks and trust companies are authorized to give such security for
49 such deposits. The accounts of the authority shall be subject to the
50 supervision of the state comptroller and he or she or his or her legally
51 authorized representatives are hereby authorized and empowered from time
52 to time to examine the accounts and books of the authority, including
53 its receipts, disbursements, contracts, sinking funds, investments and
54 any other matter relating to its financial standing and fiscal affairs.
55 The authority shall render a complete annual account of its proceedings

1 to the city council at its first meeting in [~~February~~] April of each and
2 every year.

3 § 8. Paragraph (i) of subdivision 3 of section 1958 of the public
4 authorities law, as added by chapter 759 of the laws of 1967, is amended
5 to read as follows:

6 (i) vesting in a trustee or trustees such property, rights, powers and
7 duties in trust as the authority may determine which may include any or
8 all the rights, powers and duties of the trustees appointed by the bond-
9 holders pursuant to section nineteen hundred [~~and—fifteen hereof~~]
10 sixty-five of this title, and limiting or abrogating the right of the
11 bondholders to appoint a trustee under said section or limiting the
12 rights, duties and powers of trustee; and

13 § 9. Section 1967 of the public authorities law, as added by chapter
14 759 of the laws of 1967, is amended to read as follows:

15 § 1967. Termination of the authority. Whenever all of the bonds issued
16 by the authority shall have been redeemed or cancelled, and all
17 straight-lease transactions have been terminated, the authority shall
18 cease to exist and all rights, titles, and interest and all obligations
19 and liabilities thereof vested in or possessed by the authority shall
20 thereupon vest in and be possessed by the city of Troy.

21 § 10. This act shall take effect immediately.