

STATE OF NEW YORK

989

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. GAUGHRAN, COMRIE -- 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 establishing
the North Shore water authority

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

1 Section 1. Legislative findings. The legislature hereby finds that the
2 groundwater supply system presently operated by a private utility in the
3 northwest portion of the Nassau county servicing the residents of the
4 village of Sea Cliff, and portions of the village of Old Brookville,
5 village of Roslyn Harbor, and residents in the unincorporated hamlets of
6 Glenwood Landing, Glen Head and the city of Glen Cove, is fragile and
7 subject to episodic deficiencies of varying magnitude including service
8 disruptions and drastic price variations to residents serviced by the
9 existing private water company. The groundwater supply requires better
10 management of its entire reserve both within and outside the water util-
11 ity supply area as well as long range planning to provide protection of
12 important watershed areas, water conservation, and prevention from
13 contamination and salt water intrusion. Since the potable water for the
14 northern portion of the North Shore peninsula is derived from an aquifer
15 which is the sole source of water for all of Long Island, the issues of
16 contamination and conservation are of statewide concern. The problems of
17 salt water intrusion facing the North Shore peninsula, face many other
18 peninsulas on Long Island and many of the barrier islands. It is hoped
19 that the authority created by this act will not only protect, preserve
20 and enhance the quality and quantity of the water within its supply
21 area, but that it will also serve as a model and as a leader in foster-
22 ing cooperation with other water suppliers to better manage, conserve
23 and protect the groundwater within and outside its supply area.

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

LBD03780-01-1

§ 2. Article 5 of the public authorities law is amended by adding a new title 5-a to read as follows:

TITLE 5-A

NORTH SHORE WATER AUTHORITY

Section 1114-a. Short title.

1114-b. Definitions.

1114-c. Water authority of North Shore district.

1114-d. Water authority of North Shore.

1114-e. Powers of the authority.

1114-f. Transfer of officers and employees.

1114-g. Bonds of the authority.

1114-h. Remedies of bondholders.

1114-i. State and municipalities not liable on authority bonds.

1114-j. Moneys of the authority.

1114-k. Bonds; legal investments for fiduciaries.

1114-l. Agreement with the state.

1114-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.

1114-n. Actions against the authority.

1114-o. Conflicts of interest of members of the board of directors and officers and employees of the authority.

1114-p. Construction and purchase contracts.

1114-q. Separability clause.

1114-r. Effect of inconsistent provisions.

1114-s. Acquisition by eminent domain.

§ 1114-a. Short title. This title may be cited as the "Water Authority of North Shore Act".

§ 1114-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section eleven hundred fourteen-d of this title.

2. "Board of directors" shall mean the governing board of the authority.

3. "Bonds" shall mean the bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

4. "Calendar year" shall mean the twelve month period from January first through December thirty-first.

5. "Chief executive officer" when referring to a municipality shall mean the chief elected official of such municipality and, when referring to the authority, shall mean the chairperson of the authority.

6. "Civil service commission" shall mean the civil service commission of the county of Nassau.

7. "Comptroller" shall mean the comptroller of the state of New York.

8. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water facility as defined in this section; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions incidental thereto.

9. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired including the cost of acquiring any land to which such buildings or structures may

1 be moved or relocated, the cost of all systems, facilities, machinery,
2 apparatus and equipment, financing charges and bond discount, interest
3 to the extent not paid or provided for from revenues or other sources,
4 the cost of engineering and architectural surveys, plans and specifica-
5 tions, bond insurance, bond credit enhancement arrangements, other
6 expenses necessary or incidental to the construction of such project and
7 the financing of the construction thereof, including the cost of legal
8 and financial advices and credit arrangements with banks or other finan-
9 cial institutions, the amount authorized in the resolution of the
10 authority providing for the issuance of bonds to be paid into any
11 reserve or special fund from the proceeds of such bonds and the financ-
12 ing of the placing of any project in operation, including the reimburse-
13 ment to any municipality, state agency, the state, the United States
14 government, or any other person for expenditures made by them that would
15 be costs of the project hereunder, notwithstanding the fact that such
16 expenditures may have been incurred prior to the effective date of this
17 title.

18 10. "County" shall mean the county of Nassau.

19 11. "Distribution system" shall mean the water facility or facilities
20 employed to deliver water from a transmission facility, or where there
21 is no transmission facility, from a supply facility, to the ultimate
22 consumers of water.

23 12. "District" shall mean the water authority of North Shore water
24 district created by section eleven hundred fourteen-c of this title.

25 13. "Governing body" shall mean:

26 (a) in the case of a city, county, town or village or district corpo-
27 ration, the finance board as such term is defined in the local finance
28 law; or

29 (b) in the case of a public benefit corporation, the members thereof.

30 14. "Members" shall mean the members of the board of directors.

31 15. "Municipality" shall mean any city, county, town, village or coun-
32 ty or town acting on behalf of an improvement district.

33 16. "Real property" shall mean lands, structures, franchises and inter-
34 ests in land, waters, lands under water, groundwater riparian rights and
35 air rights and any and all things and rights customarily included within
36 the term "real property" and includes not only fee simple absolute, but
37 also any and all lesser interests including, but not limited to, ease-
38 ments, rights of way, uses, leases, licenses and all other incorporeal
39 hereditaments and every estate, interest or right, legal or equitable,
40 including terms for years and liens thereon by way of judgments, mort-
41 gages or otherwise.

42 17. "State sanitary code" shall mean regulations adopted pursuant to
43 section two hundred twenty-five of the public health law.

44 18. "State" shall mean state of New York.

45 19. "State agency" shall mean any state office, public benefit corpo-
46 ration, department, board, commission, bureau or division, or other
47 agency or instrumentality of the state.

48 20. "Supply facility" shall mean a water facility employed to make
49 groundwater or surface water available for delivery into a transmission
50 facility or distribution system.

51 21. "System revenues" shall mean all rates, rents, fees, charges,
52 payments and other income and receipts derived from users of the author-
53 ity without limiting the generality of the foregoing, investment
54 proceeds and proceeds of insurance, condemnation, sales or other dispo-
55 sitions of assets, together with all federal, state or municipal aid as

1 well as any other income derived from the operation of the water facili-
2 ty of the authority.

3 22. "Transmission facility" shall mean a water facility used to carry
4 water from a supply facility to a distribution system.

5 23. "Treasurer" shall mean the treasurer of the authority.

6 24. "Water facility" or "water facilities" shall mean any plants,
7 structures and other real and personal property acquired, rehabilitated
8 or constructed for the purpose of supplying, transmitting, distributing
9 or treating water, including but not limited to surface or groundwater
10 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipe-
11 lines, mains, pumping stations, water distribution systems, compensating
12 reservoirs, intake stations, waterworks or sources of water supply,
13 wells, purification or filtration plants or other treatment plants and
14 works, connections, water meters, rights of flowage or diversion and
15 other plants, structures, equipment, towers, conveyances, real or
16 personal property or rights therein and appurtenances thereto necessary
17 or useful and convenient for the accumulation, supply, transmission,
18 treatment or distribution of water.

19 25. "Water project" shall mean any water facility, including the plan-
20 ning, development, financing or construction thereof.

21 26. "Watershed rules" shall mean the rules and regulations made by the
22 department of health pursuant to section eleven hundred of the public
23 health law.

24 § 1114-c. Water authority of North Shore district. There is hereby
25 created a district to be known as the "water authority of North Shore
26 district" which shall be defined as all that portion of Nassau county
27 being serviced by the New York American water service corporation as its
28 sea cliff operations district as of January first, two thousand eighteen
29 and lying north of the area serviced by Jericho water district.

30 § 1114-d. Water authority of North Shore. 1. A corporation known as
31 "water authority of North Shore" is hereby created for the purposes and
32 charged with the duties and having the powers provided in this title.
33 The authority shall be a corporate governmental agency constituting a
34 public benefit corporation and shall be a "public district" for the
35 purposes of section eighty-nine of the public service law. The authority
36 shall be governed by a board of directors consisting of six members. The
37 governing boards of the villages of Old Brookville, Sea Cliff, Roslyn
38 Harbor, and the City of Glen Cove shall each appoint one member. The
39 governing board of the Town of Oyster Bay shall appoint two members
40 representing the residents of the unincorporated hamlets of Glen Head
41 and Glenwood Landing who are serviced by the water authority of North
42 Shore. Each member shall serve for a period of two years. Each chief
43 executive officer shall file with the secretary of state a certificate
44 of appointment or reappointment of any member appointed or reappointed
45 by such chief executive within thirty days of the appointment or reap-
46 pointment. Members shall receive no compensation for their services but
47 shall be entitled to reimbursement of their necessary expenses, includ-
48 ing traveling expenses, incurred in the discharge of their duties. Noth-
49 ing in this section shall be construed as preventing a chief executive
50 officer of a municipality from appointing himself or herself to be a
51 member of the board of directors.

52 2. If the authority decides to enter into a contract to purchase or
53 otherwise acquire an interest in the New York American water service
54 corporation or to initiate a condemnation proceeding pursuant to the
55 eminent domain procedure law for the area it services within the water
56 authority of North Shore district, prior to entering into any contract

1 to purchase or otherwise acquire an interest in the New York American
2 water service corporation or the initiation of any condemnation proceed-
3 ing by the authority pursuant to the eminent domain procedure law for
4 the area it services within the water authority of North Shore district,
5 the authority shall provide ratepayers within the area serviced by the
6 New York American water service corporation and the public with public
7 forums for the expression and discussion of views regarding such
8 purchase, acquisition or condemnation of the New York American water
9 service corporation. The authority shall hold at least one forum in each
10 of the towns of North Hempstead, Oyster Bay, and city of Glen Cove with-
11 in the portions of the towns of North Hempstead and Oyster Bay and the
12 city of Glen Cove serviced by the New York American water service corpo-
13 ration.

14 3. If the authority decides to enter into a contract to purchase or
15 otherwise acquire an interest in the New York American water service
16 corporation or to initiate a condemnation proceeding pursuant to the
17 eminent domain procedure law for the area it services within the water
18 authority of North Shore district, the authority is authorized to
19 provide registered voters within the area serviced by the New York Amer-
20 ican water service corporation within the water authority of North Shore
21 district prior to entering into such contract to purchase or otherwise
22 acquire an interest in the New York American water service corporation
23 or the initiation of any condemnation proceeding by the authority pursu-
24 ant to the eminent domain procedure law for the area the New York Ameri-
25 can water service corporation services within the water authority of
26 North Shore district, with a nonbinding referendum, regarding whether
27 the authority should enter into a contract to purchase or otherwise
28 acquire an interest in the New York American water service corporation
29 or initiate condemnation proceedings pursuant to the eminent domain
30 procedure law for the area it services within the water authority of
31 North Shore district. The proposition shall be placed on the ballot and
32 voted upon at a special election or a date to be determined by the
33 Nassau county board of elections.

34 4. Any one or more of the members of the board of directors may be an
35 official or an employee of a municipality situated within the district.
36 In the event that an official or an employee of such municipality shall
37 be elected as a member of the board of directors, acceptance or
38 retention of such appointment shall not be deemed a forfeiture of his or
39 her municipal office or employment, or incompatible therewith or affect
40 his or her tenure or compensation in any way.

41 5. No action shall be taken by the authority except pursuant to the
42 favorable vote of fifty-one percent of the total authorized voting
43 strength of the board of directors. The total authorized voting strength
44 of the board of directors shall be:

45 (a) The number of weighted votes possessed by each member of the board
46 of directors shall be determined in accordance with paragraphs (b), (c)
47 and (d) of this subdivision, except each member shall possess equal
48 weighted votes prior to the adjustment pursuant to paragraph (d) of this
49 subdivision;

50 (b) No action shall be taken by the authority except pursuant to the
51 favorable vote of at least: (i) fifty-one percent of the total author-
52 ized voting strength of the board of directors; and (ii) three members
53 of the board of directors, at least two of whom shall be from among the
54 four members of the board of directors possessing the greatest number of
55 weighted votes;

1 (c) The vote of each member shall be equal to one hundred multiplied
2 by a fraction, the numerator of which shall be equal to the quantity of
3 water supplied by the authority to the owners, tenants, occupants and
4 other water users in the municipality from which such member was
5 appointed and the denominator of which shall be equal to the quantity of
6 water supplied by the authority to the owners, tenants, occupants and
7 other water users in all of the municipalities within the district; and

8 (d) Commencing on the first day of January, two thousand twenty-three,
9 and every four years thereafter, the authorized number of votes of each
10 member shall be adjusted in accordance with the formula set forth in
11 paragraph (c) of this subdivision to reflect the total quantity of water
12 supplied by the authority to owners, tenants, occupants and other water
13 users in each municipality within the district during the two calendar
14 years immediately preceding the date on which the adjustment is being
15 made.

16 6. The powers of the authority shall be vested in and shall be exer-
17 cised by the board of directors at a meeting duly called and held. Four
18 members of the board of directors, who together are authorized to cast a
19 majority of the weighted vote, shall constitute a quorum. The board of
20 directors may delegate to one or more of its members, or to one or more
21 of the officers, agents or employees of the authority, such powers and
22 duties as it may deem proper.

23 7. The officers of the authority shall consist of a chairperson, vice
24 chairperson, deputy chairperson, treasurer, and secretary, who shall not
25 be members of the board of directors. The officers of the authority
26 shall be appointed by the board of directors. The board of directors may
27 appoint and at its pleasure remove an attorney and an engineer, which
28 positions, in addition to the officers above named, shall be in the
29 exempt class of the civil service and such additional officers and
30 employees as it may require for the performance of its duties, fix and
31 determine their qualifications, duties, compensations and terms of
32 office or tenure, subject to the provisions of the civil service law of
33 the state and such rules as the civil service commission may adopt and
34 make applicable to the authority. The authority may also from time to
35 time contract for expert professional services. The duties of the offi-
36 cers shall be as follows:

37 (a) Chairperson. The chairperson shall be the chief executive officer
38 of the authority and it shall be the responsibility of the chairperson
39 to:

40 (i) preside at all meetings of the board of directors and of the offi-
41 cers;

42 (ii) manage the water facility, the transmission facility and the
43 distribution system and to effectuate the decisions of the board of
44 directors;

45 (iii) exercise supervision over the conduct of the officers and
46 employees of the authority;

47 (iv) report annually to each customer, either by mail or by publica-
48 tion once in a newspaper having general circulation within the district;
49 such report shall include but not be limited to the following informa-
50 tion:

51 (1) a brief financial account on operations of the water system
52 including, but not limited to, water rates, total revenues, operating
53 and maintenance expenses, and interest on bonds and notes;

54 (2) the population served by the authority;

55 (3) the number of wells, towers and other storage facilities operated
56 by the authority;

1 (4) the total pumpage of groundwater including the amount received
2 through interdistrict interconnections and the estimated amount lost
3 from the system;

4 (5) the single highest level from each well of each synthetic organic
5 chemical, nitrate and chloride constituent tested for by the authority
6 at any time during the year which exceeds the applicable county water
7 quality standard or guideline, that standard or guideline, the site of
8 each well at which each reported constituent was found, and the date on
9 which each reported constituent was analyzed;

10 (6) the highest level from each well of each synthetic organic chemi-
11 cal, nitrate and chloride constituent tested for by the authority at any
12 time during the year which does not exceed the applicable county water
13 standard or guideline, but which contains a level equal to or greater
14 than two-thirds of the amount permitted before exceeding a standard or
15 guideline, that standard or guideline, the site of each well at which
16 each reported constituent was found and the date on which each reported
17 constituent was analyzed;

18 (7) once every five years, the highest level of any constituent
19 discovered within the distribution system which contains a level equal
20 to or greater than two-thirds of the amount permitted before exceeding a
21 standard or guideline, that standard or guideline, and the resulting
22 action taken by the authority;

23 (8) any well restricted, removed from service or otherwise limited in
24 its use and the cause for such action;

25 (9) any actions taken to secure new supplies or replace lost capacity;

26 (10) the types of treatment which the water receives before entering
27 the distribution system;

28 (11) any compliance activities required by regulations of the depart-
29 ment of environmental conservation or the department of health or any
30 local health department and any instances of noncompliance;

31 (12) the present condition of the distribution system and any signif-
32 icant actions, as determined by the authority, to improve or maintain
33 the system;

34 (13) any special public services the authority provides during the
35 year; and

36 (14) information on water conservation measures customers can imple-
37 ment, such as, but not limited to, retrofitting plumbing fixtures,
38 altering irrigation timing, using irrigation sensors, leak detection,
39 proper use of water-consuming appliances, daily conscientious use of
40 water and estimated savings of water, energy, and money, from use of
41 these measures;

42 (v) execute all contracts in the name of the authority;

43 (vi) institute, at the direction of the board of directors, all civil
44 actions in the name of the authority;

45 (vii) provide for the enforcement of all of the rules and regulations
46 of the authority and cause all violations thereof to be prosecuted;

47 (viii) sign orders to pay claims when authorized by the board of
48 directors;

49 (ix) sign checks in the absence or inability of the treasurer or depu-
50 ty treasurer, if any, when authorized by the board of directors; and a
51 certified copy of a resolution of the board of directors to that effect
52 shall be notice to the depository of such authorization;

53 (x) appoint, subject to the approval of the board of directors, none-
54 lected officers, counsel, accountants, and other financial advisors,
55 engineers and other technical advisors;

1 (xi) employ, promote and discharge managers, supervisors and employ-
2 ees; and

3 (xii) take all other reasonable and necessary actions to carry out his
4 or her office as the chief executive of the authority. If the chair-
5 person has not been appointed as a member of the board of directors of
6 the authority pursuant to this section, such chairperson shall be deemed
7 an ex officio member of the board of directors. Such status shall not
8 carry with it the right to vote on matters coming before the board of
9 directors nor shall the presence of such chairperson be counted for the
10 purpose of determining a quorum.

11 (b) Vice chairperson. The vice chairperson shall perform all duties
12 delegated to him or her by the chairperson and, in the absence or during
13 the disability of the chairperson, the vice chairperson shall act as
14 chairperson.

15 (c) Deputy chairperson. The deputy chairperson shall perform all
16 duties delegated to him or her by the chairperson or the vice chair-
17 person.

18 (d) Secretary. (i) The secretary shall be the recording and corre-
19 sponding officer of the authority and the custodian of the records of
20 the authority.

21 (ii) The secretary shall prepare and send required notices of all
22 meetings when directed to do so by the chairperson or by the written
23 request of four members who have specified the issues to be discussed at
24 the meeting.

25 (iii) In the absence or disability of the secretary, the chairperson
26 may appoint a temporary secretary.

27 (e) Treasurer. (i) The treasurer shall have custody of all moneys
28 belonging to the authority and keep accounts of all receipts and expend-
29 itures in conformance with a uniform system of accounts formulated and
30 prescribed by the comptroller pursuant to section thirty-six of the
31 general municipal law.

32 (ii) The treasurer shall execute a bond, conditioned upon the faithful
33 performance of the duties of his or her office, the amount and suffi-
34 ciency of which shall be approved by the board of directors and the
35 premium therefor shall be paid by the authority.

36 (iii) The treasurer shall deposit, within ten days after receipt ther-
37 eof, in the name of the authority, in one or more banks, and/or trust
38 companies, designated by the board of directors, all moneys received by
39 him or her.

40 (iv) The treasurer may sign checks with the facsimile signature of the
41 treasurer, as reproduced by a machine or device commonly known as a
42 checksigner, when authorized by the board of directors.

43 (v) The treasurer shall pay out moneys from the authority treasury
44 only as authorized by the board of directors and by law. All such
45 payments, except as may be authorized by the board of directors for a
46 petty cash account, shall be by check.

47 (vi) The treasurer shall issue a report on the finances of the author-
48 ity at each regular meeting of the board of directors.

49 (vii) The treasurer shall file in the office of the authority, within
50 sixty days after the end of the fiscal year, a statement showing in
51 detail all revenues and expenditures during the previous fiscal year and
52 the outstanding indebtedness of the authority as of the end of the
53 fiscal year. The members shall, within ten days, cause to be published
54 once in a newspaper having general circulation within the district, a
55 notice that the annual financial statement has been filed and is avail-
56 able for inspection or a summary of such statement in a form approved by

1 the comptroller, with an endorsement thereon that details thereof are on
2 file in the office of the authority. The members shall cause to be
3 audited by a certified public accountant engaged for that purpose, such
4 report and supporting records.

5 8. The terms of the chairperson, vice chairperson and deputy chair-
6 person first appointed shall be staggered, the chairperson first
7 appointed shall serve for a period of four years, the vice chairperson
8 first appointed shall serve for a period of three years and the deputy
9 chairperson first appointed shall serve for a period of two years; ther-
10 eafter their successors shall serve for terms of four years. The remain-
11 ing officers shall each serve terms of one year. The board of directors
12 shall have the right, at any time, to extend any such term, for a period
13 of months, to provide that such term terminates contemporaneously with
14 the end of the fiscal year of the authority.

15 9. The officers of the authority shall receive such compensation for
16 their services as shall be fixed by the board of directors and shall be
17 reimbursed for all necessary and actual expenses incurred in connection
18 with their duties as such officers and in connection with the carrying
19 out of the purposes of this title.

20 10. The authority and its corporate existence shall continue until
21 terminated by law; provided, however, that no such law shall take effect
22 so long as the authority shall have bonds or other obligations outstand-
23 ing unless adequate provision has been made for the payment or satisfac-
24 tion thereof. Upon termination of the existence of the authority, all of
25 the rights and properties of the authority then remaining shall pass to
26 and vest in the municipalities within the district. Such property shall
27 be apportioned and distributed among the municipalities within the
28 district in direct proportion to their weighted voting on the date of
29 the termination of the authority.

30 11. In addition to any powers granted to it by law, the governing body
31 of each of the municipalities within the district, from time to time,
32 may appropriate sums of money to defray project costs or any other costs
33 and expenses of the authority. Subject to the rights of bondholders,
34 each governing body may determine if the moneys so appropriated shall be
35 subject to repayment by the authority to the municipalities, and in such
36 event, the manner and time or times for such repayment.

37 12. Neither the public service commission nor any other board or
38 commission of like character, shall have jurisdiction over the authority
39 in the management and control of its properties or operations or any
40 power over the regulation of rates fixed or charges collected by the
41 authority.

42 13. It is hereby determined and declared that the authority and the
43 carrying out of its powers, purposes and duties are in all respects for
44 the benefit of the people of the municipalities within the district and
45 state, for the improvement of their health, welfare and prosperity and
46 that the said purposes are public purposes and that the authority is and
47 will be performing an essential governmental function in the exercise of
48 the powers conferred upon it by this title.

49 § 1114-e. Powers of the authority. Except as otherwise limited by this
50 title, the authority shall have the power to:

- 51 1. sue and be sued;
- 52 2. have a seal and alter the same at pleasure;
- 53 3. borrow money and issue negotiable or non-negotiable notes, bonds,
54 or other obligations and to provide for the rights of the holders there-
55 of;

1 4. enter into contracts and execute all instruments necessary or
2 convenient or desirable for the purposes of the authority to carry out
3 any powers expressly given it in this title;

4 5. acquire, by purchase, gift, grant, transfer, contract or lease or
5 by condemnation pursuant to the eminent domain procedure law, lease as
6 lessee, hold and use and to sell, lease as lessor, transfer or otherwise
7 dispose of, any real or personal property or any interest therein, with-
8 in or without the district, but within the territorial limits of the
9 town of Oyster Bay or North Hempstead, as the authority may deem neces-
10 sary, convenient or desirable to carry out the purpose of this title;
11 provided, however, that the authority may not condemn real property of a
12 municipality without the consent of the governing body of such munici-
13 pality;

14 6. purchase, in the name of the authority, any water supply system,
15 including plants, works, instrumentalities or parts thereof and appurte-
16 nances thereto, lands, easements, rights in land and water rights,
17 rights-of-way, contract rights, franchises, permits, approaches,
18 connections, dams, wells, pumps, reservoirs, water mains and pipe lines,
19 pumping stations, treatment facilities, meters, equipment and inventory,
20 or any other property incidental to and included in such system or part
21 thereof, and any improvements, extensions and betterments, situated
22 wholly within the district, provided, however, that the authority shall
23 have the power to purchase any source of supply, or water supply system
24 or any part thereof situated wholly or partly without the territorial
25 limits of the district, provided same shall be necessary in order to
26 supply water within the district and in connection with the purchase of
27 such properties the authority may assume any obligations of the owner of
28 such properties and, to the extent required by the terms of any inden-
29 tures or other instruments under which such obligations were issued, the
30 authority may assume and agree to perform covenants and observe the
31 restrictions contained in such instruments; and furthermore the owner of
32 any properties, which the authority is authorized to acquire, is hereby
33 authorized to sell or otherwise transfer the same to the authority,
34 whereupon the authority shall become charged with the performance of all
35 public duties with respect to such properties with which such owner was
36 charged and such owner shall become discharged from the performance
37 thereof, as a means of so acquiring for such purpose, the authority may
38 purchase all of the stock of any existing privately owned water corpo-
39 ration or company and in the case of a sale or other transfer of proper-
40 ties of a public utility corporation pursuant to this provision, upon
41 the purchase of the stock of such corporation or company it shall be
42 lawful to dissolve such corporation within a reasonable time;

43 7. construct, improve or rehabilitate water supply facilities required
44 for the maintenance, development or expansion of water supply sources;

45 8. operate and manage and to contract for the operation and management
46 of facilities of the authority;

47 9. enter into contracts, and carry out the terms thereof, for the
48 wholesale provision of water produced by supply facilities constructed
49 and operated by the authority, to municipalities and private water
50 companies and to carry out the terms thereof, for the transmission of
51 water from new or existing supply facilities;

52 10. apply to the appropriate agencies and officials of the federal,
53 state and local governments for such licenses, permits or approvals of
54 its plans or projects as it may deem necessary or advisable, and upon
55 such terms and conditions as it may deem appropriate, to accept, in its

1 discretion, such licenses, permits or approvals as may be tendered to it
2 by such agencies and officials;

3 11. take all necessary and reasonable actions within the district to
4 conserve, preserve and protect the water supply to the district, includ-
5 ing the making of plans and studies, the adoption of watershed rules and
6 regulations, the enforcing of compliance with all current and future
7 rules and regulations of the state sanitary code with regard to water
8 supply and usage, the requiring of cross-connection controls, the
9 providing of educational material and programs to the public, and the
10 cooperating with water suppliers outside the district to conserve,
11 preserve and protect the entire water reserve as it is affected within
12 and outside the authority's supply area;

13 12. retain or employ counsel, auditors, engineers and private consult-
14 ants on a contract basis or otherwise for rendering professional or
15 technical services and advice;

16 13. make plans and studies necessary, convenient or desirable for the
17 effectuation of the purposes and powers of the authority and to prepare
18 recommendations in regard thereto;

19 14. prepare a water supply emergency plan which shall include, but not
20 be limited to, the following:

21 (a) establishment of criteria and procedures to determine critical
22 water levels or safe yield of system;

23 (b) identification of existing and future sources of water under
24 normal conditions and emergency conditions;

25 (c) system capacity and ability to meet peak demand and fire flows
26 concurrently;

27 (d) storage capacities;

28 (e) current condition of present interconnections and identification
29 of additional interconnections to meet a water supply emergency;

30 (f) a specific action plan to be followed during a water supply emer-
31 gency including a phased implementation of the plan;

32 (g) general water conservation programs and water use reduction strat-
33 egies for water supply users;

34 (h) prioritization of water users;

35 (i) identification and availability of emergency equipment needed
36 during a water supply emergency; and

37 (j) a public notification program coordinated with the phased imple-
38 mentation schedule; such plan shall not be adopted until a public hear-
39 ing on such plan shall have been held, upon not less than fourteen days'
40 notice thereof to each customer, either by mail or by publication once
41 in a newspaper having general circulation within the district; every
42 five years, such plan shall be reviewed and revised if necessary after a
43 public hearing, with notice to each customer as aforesaid;

44 15. enter upon such lands, waters, or premises as in the judgment of
45 the authority shall be necessary for the purpose of making surveys,
46 soundings, borings and examinations to accomplish any purpose authorized
47 by this title, the authority being liable only for actual damage done;

48 16. apply for and to accept any gifts or grants or loans of funds or
49 property or financial or other aid in any form from the federal govern-
50 ment or any agency or instrumentality thereof, or from the state or any
51 agency or instrumentality thereof, or from any other source, for any or
52 all of the purposes specified in this title, and to comply, subject to
53 the provisions of this title, with the terms and conditions thereof;

54 17. obtain, store, treat, distribute, supply and sell water for domes-
55 tic, commercial and public purposes at retail to individual consumers
56 within the district;

1 18. purchase water from any municipal corporation, town water
2 district, person, association or corporation;

3 19. produce, develop, distribute and sell water or water services
4 within or without the territorial limits of the district; provided,
5 however, that water may be sold at retail to individual consumers only
6 within the district and further provided that in exercising the powers
7 granted by this title, the authority shall not sell water in any area
8 which is served by a water system owned or operated by a municipality or
9 special improvement district unless the governing body of such munici-
10 pality or district shall adopt a resolution requesting the authority to
11 sell water in such served areas;

12 20. make bylaws for the management and regulation of its affairs and
13 rules and regulations for the conservation, preservation and protection
14 of the authority's water supply and, subject to agreements with bond-
15 holders, rules for the sale of water and the collection of rents and
16 charges therefor. A copy of such rules, regulations and bylaws and any
17 rules and regulations adopted pursuant to subdivision eleven of this
18 section, and all amendments thereto, duly certified by the secretary of
19 the authority shall be filed in the office of the municipalities within
20 the district and thereafter published once in a newspaper having general
21 circulation within the district. Violation of such rules and regulations
22 shall be punishable by fine, not exceeding fifty dollars, or by impri-
23 sonment for not longer than thirty days, or both;

24 21. fix rates and collect charges for the use of the facilities of, or
25 services rendered by, or any commodities furnished by the authority such
26 as to provide revenues sufficient at all times to pay, as the same shall
27 become due, the principal and interest on the bonds, or other obli-
28 gations of the authority together with the maintenance of proper
29 reserves therefor, in addition to paying as the same shall become due,
30 the expense of operating and maintaining the properties of the authority
31 together with proper maintenance reserves, capital reserves, repair
32 reserves, tax stabilization reserves and other contingency reserves, and
33 all other obligations and indebtedness of the authority; however, no
34 such rates or charges shall be changed until a public hearing on such
35 changes shall have been held upon not less than fourteen days' notice
36 thereof to each customer, either by mail or by publication once in a
37 newspaper having general circulation within the district;

38 22. enter into cooperative agreements with other authorities, munici-
39 palties, counties, cities, towns, villages, water districts, utility
40 companies, individuals, firms or corporations, within or without the
41 territorial limits of the district for the interconnection of facili-
42 ties, the exchange or interchange of services and commodities, the
43 conservation, preservation and protection of the authority's water
44 reserve as it is affected within and outside the authority's supply
45 area, and, within the territorial limits of the district, to enter into
46 a contract for the construction, operation and maintenance of a water
47 supply and distribution system by the authority for any municipality
48 having power to construct and develop a water supply and distribution
49 system, upon such terms and conditions as shall be determined to be
50 reasonable including, but not limited to the reimbursement of all costs
51 of such construction, or for any other lawful purposes necessary or
52 desirable to effect the purposes of this title;

53 23. provide for the discontinuance or disconnection of the supply of
54 water for nonpayment of fees, rates, rents or other charges therefor
55 imposed by the authority, provided such discontinuance or disconnection
56 of any supply of water shall not be carried out except in the manner and

1 upon the notice as is required of a waterworks corporation pursuant to
2 subdivisions three-a, three-b and three-c of section eighty-nine-b and
3 section one hundred sixteen of the public service law;

4 24. contract for, provide and maintain such insurance as it deems
5 necessary or reasonable to:

6 (a) secure and protect its real and personal property from fire, theft
7 or other calamity or loss;

8 (b) secure and protect it against liability imposed by law for damages
9 for injuries to persons or property;

10 (c) secure and protect it against any liability which may be imposed
11 pursuant to section eighteen of the public officers law; and

12 (d) secure and protect it against any other liability, casualty or
13 loss as it deems necessary or reasonable; and

14 25. do all things necessary, convenient or desirable to carry out its
15 purposes and for the exercise of the powers granted in this title.

16 § 1114-f. Transfer of officers and employees. Any public officer or
17 employee under civil service, selected by the authority may, with the
18 consent of the commission, board, department or municipality by which he
19 or she has been employed, be transferred to the authority and shall be
20 eligible for such transfer and appointment without examination to compa-
21 rable offices, positions and employment under the authority. The salary
22 or compensation of any such officer or employee shall after such trans-
23 fer be paid by the authority, but notwithstanding the provisions of this
24 title, any such officers or employees so transferred to the authority,
25 pursuant to the provisions of this section, who are members of or bene-
26 ficiaries under any existing pension or retirement system, shall contin-
27 ue to have all rights, privileges, obligations and status with respect
28 to such fund system or systems as are now prescribed by law, but during
29 the period of their employment by the authority, all contributions to
30 any pension or retirement fund or system to be paid by the employer on
31 account of such officers and employees, shall be paid by the authority;
32 and all such officers and employees who have been appointed to positions
33 under the rules and classifications of the civil service commission
34 shall have the same status with respect thereto after transfer to the
35 authority as they had under their original appointments. The appointment
36 and promotion of all employees of the authority shall be made in accord-
37 ance with the provisions of the civil service law and such rules as the
38 civil service commission may adopt and make applicable to the authority.

39 § 1114-g. Bonds of the authority. 1. The authority shall have the
40 power and is hereby authorized from time to time to issue bonds, in
41 conformity with applicable provisions of the uniform commercial code, in
42 such principal amounts as it may determine to be necessary to pay the
43 cost of any water project or projects or for any other corporate
44 purposes, including incidental expenses in connection therewith. The
45 authority shall have power from time to time to refund any bonds by the
46 issuance of new bonds whether the bonds to be refunded have or have not
47 matured, and may issue bonds partly to refund bonds then outstanding and
48 partly for any other corporate purpose. Bonds issued by the authority
49 may be general obligations secured by the faith and credit of the
50 authority or may be special obligations payable solely out of particular
51 revenues or other moneys of the authority as may be designated in the
52 proceedings of the authority under which the bonds shall be authorized
53 to be issued, subject to any agreements with the holders of outstanding
54 bonds pledging particular revenues or moneys.

55 2. The authority is authorized to obtain from any department or agency
56 of the United States of America or nongovernmental insurer any insurance

1 or guaranty, or any other credit enhancement arrangement with any bank
2 or other financial institution to the extent now or hereafter available,
3 as to, or for the payment or repayment of interest or principal, or
4 both, or any part thereof, on any bonds issued by the authority and to
5 enter into any agreement or contract with respect to any such insurance
6 or guaranty, except to the extent that the same would in any way impair
7 or interfere with the ability of the authority to perform and fulfill
8 the terms of any agreement made with the holders of the bonds of the
9 authority.

10 3. Bonds shall be authorized by resolution of the authority, and may
11 be in such denominations and bear such date or dates and mature at such
12 time or times as such resolution may provide except that bonds and any
13 renewal thereof shall mature within forty years of the date of their
14 original issuance and notes and any renewal thereof shall mature within
15 five years of the date of their original issuance. Such bonds shall be
16 subject to such terms of redemption, bear interest at such rate or
17 rates, which may vary from time to time, as may be necessary to effect
18 the sale thereof and shall be payable at such times, be in such form,
19 carry such registration privileges, be executed in such manner, be paya-
20 ble in such medium of payment at such place or places, and be subject to
21 such terms and conditions as such resolution may provide. Bonds may be
22 sold at public sale or at private sale for such price or prices as the
23 authority shall determine, provided that no issue of bonds may be sold
24 at private sale unless the terms of such sale shall have been approved
25 in writing by:

26 (a) the comptroller, where such sale is not to the comptroller; or
27 (b) the director of the division of the budget of the state, where
28 such sale is to the comptroller.

29 4. Any resolution or resolutions authorizing bonds or any issue of
30 bonds by the authority may contain provisions which may be part of the
31 contract with the holders of the bonds thereby authorized as to:

32 (a) pledging all or part of its revenues, together with any other
33 moneys, securities, contracts or property, to secure the payment of the
34 bonds, subject to such agreements with bondholders as may then exist;

35 (b) the rates, rentals, fees and other charges to be fixed and
36 collected and the amounts to be raised in each year thereby, and the use
37 and disposition of the earnings and other revenues;

38 (c) the setting aside of reserves and the creation of sinking funds
39 and the regulation and disposition thereof;

40 (d) limitations on the purpose to which the proceeds from the sale of
41 bonds may be applied;

42 (e) limitations on the right of the authority to restrict and regulate
43 the use of any project or part thereof in connection with which bonds
44 are issued;

45 (f) limitations on the issuance of additional bonds, the terms upon
46 which additional bonds may be issued and the refunding of outstanding or
47 other bonds;

48 (g) the procedure, if any, by which the terms of any contract with
49 bondholders may be amended or abrogated, including the proportion of
50 bondholders which shall consent thereto and the manner in which such
51 consent may be given;

52 (h) the creation of special funds into which any revenues or other
53 moneys may be deposited;

54 (i) the terms and provisions of any trust, deed or indenture securing
55 the bonds under which the bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section eleven hundred fourteen-h of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of any system or any part thereof or other property;

(m) limitations on the amount of revenues and other moneys to be expended for operating, administrative or other expenses of the authority;

(n) the protection and enforcement of the rights and remedies of the bondholders;

(o) the obligations of the authority in relation to the construction, maintenance, operation, repairs and insurance of the properties, the safeguarding and application of all moneys and as to the requirements for the supervision and approval of consulting engineers in connection with construction, reconstruction and operation;

(p) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depository, and for the method of disbursement thereof with such safeguards and restrictions as the authority may determine; and

(q) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, consistent or desirable concerning the use or disposition of its revenues or other moneys or property, including remarketing agreements or other similar agreements for the bonds, the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, or property and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irre-

1 spective of whether or not such parties have notice thereof. No instru-
2 ment by which such a pledge or security interest is created nor any
3 financing statement need be recorded or filed.

4 7. Whether or not the bonds of the authority are of such form and
5 character as to be negotiable instruments under the terms of the uniform
6 commercial code, the bonds are hereby made negotiable instruments within
7 the meaning of and for all purposes of the uniform commercial code,
8 subject only to the provisions of the bonds for registration.

9 8. Neither the members of the board of directors nor the officers of
10 the authority nor any person executing bonds shall be liable personally
11 thereon or be subject to any personal liability or accountability solely
12 by reason of the issuance thereof.

13 9. The authority, subject to such agreements with bondholders as then
14 may exist, shall have power out of any moneys available therefor to
15 purchase bonds of the authority in lieu of redemption, at a price not
16 exceeding:

17 (a) if the bonds are then redeemable, the redemption price then appli-
18 cable, plus accrued interest to the next interest payment date; or

19 (b) if the bonds are not then redeemable, the redemption price then
20 applicable on the first date after such purchase upon which the bonds
21 become subject to redemption plus accrued interest to the next interest
22 payment date.

23 10. The authority shall have power and is hereby authorized to issue
24 negotiable bond anticipation notes in conformity with applicable
25 provisions of the uniform commercial code and may renew the same from
26 time to time but the maximum maturity of any such note, including
27 renewals thereof, shall not exceed five years from the date of issue of
28 such original note. Such notes shall be paid from any moneys of the
29 authority available therefor and not otherwise pledged or from the
30 proceeds of sale of the bonds of the authority in anticipation of which
31 they were issued. The notes shall be issued in the same manner as the
32 bonds and such notes and the resolution or resolutions authorizing the
33 same may contain any provisions, conditions or limitations which the
34 bonds or bond resolution of the authority may contain. Such notes may be
35 sold at public sale or, upon the approval of the comptroller of the
36 terms thereof, at private sale. Such notes shall be as fully negotiable
37 as the bonds of the authority.

38 § 1114-h. Remedies of bondholders. 1. In the event that the authority
39 shall default in the payment of principal of or interest on any issue of
40 the bonds after the same shall become due, whether at maturity or upon
41 call for redemption, and such default shall continue for a period of
42 thirty days, or in the event that the authority shall fail or refuse to
43 comply with the provisions of this title, or shall default in any agree-
44 ment made with the holders of any issue of the bonds, the holders of
45 twenty-five per centum in aggregate principal amount of the bonds of
46 such issue then outstanding, by instrument or instruments filed in the
47 office of the clerk of the applicable county and proved or acknowledged
48 in the same manner as a deed to be recorded, may appoint a trustee to
49 represent the holders of such bonds for the purposes herein provided.

50 2. Such trustee may, and upon written request of the holders of twen-
51 ty-five per centum in principal amount of such bonds outstanding shall,
52 in his or her own name:

53 (a) by action or proceeding in accordance with the civil practice law
54 and rules, enforce all rights of the bondholders and require the author-
55 ity to carry out any other agreements with the holders of such bonds and
56 to perform its duties under this title;

1 (b) bring an action or proceeding upon such bonds;
2 (c) by action or proceeding, require the authority to account as if it
3 were the trustee of an express trust for the holders of such bonds;
4 (d) by action or proceeding, enjoin any acts or things which may be
5 unlawful or in violation of the rights of the holders of such bonds; and
6 (e) declare all such bonds due and payable, and if all defaults shall
7 be made good, then with the consent of the holders of twenty-five per
8 centum of the principal amount of such bonds then outstanding, annul
9 such declaration and its consequences.

10 3. Such trustee shall in addition to the foregoing have and possess
11 all of the powers necessary or appropriate for the exercise of any func-
12 tions specifically set forth herein or incidental to the general repre-
13 sentation of bondholders in the enforcement and protection of their
14 rights.

15 4. The state supreme court, county of Nassau and the state shall have
16 jurisdiction of any action or proceeding by the trustee on behalf of
17 such bondholders.

18 5. Before declaring the principal of bonds due and payable, the trus-
19 tee shall first give thirty days' notice in writing to the authority.

20 § 1114-i. State and municipalities not liable on authority bonds.
21 Neither the state nor any municipality shall be liable on the bonds of
22 the authority and such bonds shall not be a debt of the state or of any
23 municipality.

24 § 1114-j. Moneys of the authority. All moneys of the authority from
25 whatever source derived shall be paid to the treasurer and shall be
26 deposited forthwith in one or more banks and/or trust companies in the
27 state designated by the authority. The moneys in such accounts shall be
28 paid out on checks of the treasurer upon requisition by the chairperson
29 of the authority or of such other officer or officers as the authority
30 may authorize to make such requisitions. All deposits of such moneys
31 shall be secured by obligations of or guaranteed by the United States of
32 America or of the state of a market value equal at all times to the
33 amount on deposit and all banks and trust companies are authorized to
34 give such security for such deposits. Any moneys of the authority not
35 required for immediate use or disbursement may, at the discretion of the
36 authority, be invested in those obligations specified pursuant to the
37 provisions of section ninety-eight-a of the state finance law. The
38 authority shall have power, notwithstanding the provisions of this
39 section, to contract with the holders of any bonds as to the custody,
40 collection, security, investment and payment of any moneys of the
41 authority or any moneys held in trust or otherwise for the payment of
42 bonds or in any way to secure bonds. Moneys held in trust or otherwise
43 for the payment of bonds or in any way to secure bonds and deposits of
44 such moneys may be secured in the same manner as moneys of the authority
45 and all banks and trust companies are authorized to give such security
46 for such deposits.

47 § 1114-k. Bonds; legal investments for fiduciaries. The bonds of the
48 authority are hereby made securities in which all public officials and
49 bodies of the state and all municipalities, all insurance companies and
50 associations and other persons carrying on an insurance business, all
51 banks, bankers, trust companies, savings banks and savings associations,
52 including savings and loan associations, investment companies and other
53 persons carrying on a banking business, and administrators, guardians,
54 executors, trustees and other fiduciaries and all other persons whatso-
55 ever, who are now or may hereafter be authorized to invest in bonds or
56 other obligations of the state, may properly and legally invest funds

1 including capital in their control or belonging to them. The bonds are
2 also hereby made securities which may be deposited with and may be
3 received by all public officers and bodies of the state and all muni-
4 cipalities for any purposes for which the deposit of bonds or other obli-
5 gations of the state is now or hereafter may be authorized.

6 § 1114-l. Agreement with the state. The state does hereby pledge to
7 and agree with the holders of any bonds issued by the authority pursuant
8 to this title that the state will not alter or limit the rights hereby
9 vested in the authority to fulfill the terms of any agreement made with
10 or for the benefit of the holders of bonds or in any way impair the
11 rights and remedies of bondholders until the bonds together with the
12 interest thereon, with interest on any unpaid installments of interest,
13 and all costs and expenses in connection with any action or proceeding
14 by or on behalf of such holders, are fully met and discharged. The
15 authority is authorized to include this pledge and agreement of the
16 state in any agreement with bondholders.

17 § 1114-m. Exemption from taxes, assessments and certain fees; payments
18 in lieu of taxes. 1. It is hereby determined that the creation of the
19 authority and the carrying out of its corporate purposes is in all
20 respects for the benefit of the people of the state and is a public
21 purpose, and the authority shall be regarded as performing a govern-
22 mental function in the exercise of the powers conferred upon it by this
23 title and shall not be required to pay any taxes, special ad valorem
24 levies or special assessments upon any real property owned by it or any
25 filing, recording or transfer fees or taxes in relation to instruments
26 filed, recorded or transferred by it or on its behalf.

27 2. The authority may pay, or may enter into agreements with any muni-
28 cipality to pay, a sum or sums annually or otherwise or to provide other
29 considerations to such municipality with respect to real property owned
30 by the authority located within such municipality and constituting a
31 part of its water system.

32 3. Any bonds issued pursuant to this title together with the income
33 therefrom shall be exempt from taxation except for transfer and estate
34 taxes. The revenues, moneys and all other property and all activities of
35 the authority shall be exempt from all taxes and governmental fees or
36 charges, whether imposed by the state or any municipality, including
37 without limitation real estate taxes, income taxes, franchise taxes,
38 sales taxes or other excise taxes.

39 4. The state hereby covenants with the purchasers and with all subse-
40 quent holders and transferees of bonds issued by the authority pursuant
41 to this title, in consideration of the acceptance of and payment for the
42 bonds, that the bonds of the authority issued pursuant to this title and
43 the income therefrom shall be exempt from such taxation, as stated in
44 subdivision three of this section, and that all revenues, moneys, and
45 other property pledged to secure the payment of such bonds shall at all
46 times be free from such taxes as stated in such subdivision.

47 5. Notwithstanding the provisions of subdivisions one through four of
48 this section, nothing herein shall prevent the state from assessing a
49 tax or surcharge against the water customers based on their water
50 consumption, provided, however, that all such taxes and surcharges and
51 the authority's obligation to collect and pay such taxes and surcharges
52 shall be subordinate to the rights of holders of all of the authority's
53 bonds and notes and to the payment of principal, premiums if any, and
54 interest thereon.

55 § 1114-n. Actions against the authority. 1. Except in an action for
56 wrongful death, no action or proceeding shall be prosecuted or main-

1 tained against the authority for personal injury or damage to real or
2 personal property alleged to have been sustained by reason of the negli-
3 gence or wrongful act of the authority or any member, officer, agent or
4 employee thereof, unless:

5 (a) a notice of claim shall have been made and served upon the author-
6 ity within the time limit by and in compliance with section fifty-e of
7 the general municipal law;

8 (b) it shall appear by and as an allegation in the complaint or moving
9 papers that at least thirty days have elapsed since the service of such
10 notice and that adjustment or payment thereof has been neglected or
11 refused;

12 (c) the action or proceeding shall be commenced within one year and
13 ninety days after the happening of the event upon which the claim is
14 based; and

15 (d) An action against the authority for wrongful death shall be
16 commenced in accordance with the notice of claim and time limitation
17 provisions of title eleven of article nine of this chapter.

18 2. Wherever a notice of claim is served upon the authority, it shall
19 have the right to demand an examination of the claimant relative to the
20 occurrence and extent of the injuries or damages for which claim is
21 made, in accordance with the provisions of section fifty-h of the gener-
22 al municipal law.

23 3. The authority may require any person presenting for settlement an
24 account or claim for any cause whatsoever against the authority to be
25 sworn before a member, counsel, or an attorney, officer or employee
26 thereof designated for such purpose, concerning such account or claim
27 and when so sworn, to answer orally as to any facts relative to such
28 account or claim. The authority shall have power to settle or adjust all
29 claims in favor of or against the authority.

30 4. The rate of interest to be paid by the authority or the water board
31 upon any judgment for which it is liable, other than a judgment against
32 the authority on its bonds, shall not exceed the rate of interest on
33 judgments and accrued claims against municipal corporations as provided
34 in the general municipal law from time to time. Interest on payments of
35 principal or interest on any bonds in default shall accrue at the rate
36 borne by such bonds from the due date thereof until paid or otherwise
37 satisfied.

38 § 1114-o. Conflicts of interest of members of the board of directors
39 and officers and employees of the authority. No member of the board of
40 directors or officer or employee of the authority shall have any inter-
41 est in any contract, or take any action or otherwise involve himself or
42 herself in any activity which, pursuant to article eighteen of the
43 general municipal law, would be deemed a conflict of interest for a
44 municipal officer or employee holding a position with a municipality
45 similar to the position held by the member, officer or employee with the
46 authority.

47 § 1114-p. Construction and purchase contracts. The authority shall let
48 contracts for construction or purchase of supplies, materials, or equip-
49 ment pursuant to section one hundred three of the general municipal law.
50 Nothing in this section shall be construed to limit the power of the
51 authority to do any construction directly by the officers, agents and
52 employees of the authority or to contract with a public utility, for a
53 term not to exceed five years, for the operation and maintenance of a
54 water supply system acquired from said public utility.

55 § 1114-q. Separability clause. If any section, clause or provision in
56 this title shall be held by a competent court to be unconstitutional or

1 ineffective in whole or in part, to the extent that it is not unconsti-
2 tutional or ineffective, it shall be valid and effective, and no other
3 section, clause or provision shall on account thereof be deemed invalid
4 or ineffective.

5 § 1114-r. Effect of inconsistent provisions. Insofar as the provisions
6 of this title are inconsistent with the provisions of any other law,
7 general, special or local, or of any charter or any local ordinance or
8 resolution of any municipality, the provisions of this title shall be
9 controlling, provided that nothing contained in this section shall be
10 held to supplement or otherwise expand the powers or duties of the
11 authority otherwise set forth in this title. Nothing contained in this
12 title shall be held to alter or abridge the powers and duties of the
13 department of environmental conservation or the department of health.

14 § 1114-s. Acquisition by eminent domain. Notwithstanding any provision
15 of the eminent domain procedure law to the contrary, in any proceeding
16 brought by the authority pursuant to said law, title shall vest in the
17 authority and compensation shall be paid only:

18 1. upon a decision by the supreme court that compensation for the
19 property so condemned shall be determined solely by the income capital-
20 ization method of valuation, based on the actual net income as allowed
21 by the public service commission, and

22 2. upon such court's determination of the amount of such compensation,
23 based upon the income capitalization method, entry of the final judg-
24 ment, the filing of the final decree, and the conclusion of any appeal
25 or expiration of the time to file an appeal related to the condemnation
26 proceeding. Should any court determine that a method of compensation
27 other than the income capitalization method be utilized, or if the
28 proposed award is more than the rate base of the assets taken in condem-
29 nation as utilized by the public service commission in setting rates and
30 as certified by the public service commission, the authority may with-
31 draw the condemnation proceeding without prejudice or costs to any
32 party.

33 § 3. This act shall take effect on the ninetieth day after it shall
34 have become a law.