

STATE OF NEW YORK

6920

2023-2024 Regular Sessions

IN ASSEMBLY

May 9, 2023

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

AN ACT to amend the public authorities law, in relation to establishing the Middletown parking authority and providing for its powers, duties and obligations; to repeal certain provisions of the public authorities law relating thereto; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. Title 21 of article 7 of the public authorities law is REPEALED and a new title 21 is added to read as follows:

TITLE 21

MIDDLETOWN PARKING AUTHORITY

Section 1621-a. Short title.

1621-b. Definitions.

1621-c. Middletown parking authority.

1621-d. Purpose and powers of the authority.

1621-e. Civil service status of officers and employees.

1621-f. Conveyance of property by the city to the authority; acquisition of property by the city or by the authority.

1621-g. Construction and purchase contracts.

1621-h. Moneys of the authority.

1621-i. Bonds of the authority.

1621-j. Notes of the authority.

1621-k. Agreements of the city and the state.

1621-l. State and city not liable on bonds.

1621-m. Bonds and notes legal investments for public officers and fiduciaries.

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

LBD10744-01-3

1621-n. Tax exemptions.

1621-o. Tax contract by the state.

1621-p. Remedies of bondholders.

1621-q. Actions against the authority.

1621-r. Termination of the authority.

1621-s. Severability.

1621-t. Inconsistent provisions in other acts superseded.

§ 1621-a. Short title. This title shall be known and may be cited as the "Middletown parking authority act."

§ 1621-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section sixteen hundred twenty-one-c of this title;

2. The term "city" shall mean the city of Middletown;

3. The term "bonds" and "notes" shall mean the bonds and notes, respectively, authorized in this title;

4. The term "board" shall mean the board established pursuant to section sixteen hundred twenty-one-c of this title;

5. The term "real property" shall mean lands, structures, franchises, and interest in lands, and any and all things usually included within the said term, and includes not only fees simple absolute but also any and all lesser interests, such as easements, rights of way, and rights, sub-surface rights, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms of years, and liens thereon by way of judgments, mortgages or otherwise, and also claims for damage to real estate, in the area of the city; and

6. The term "project" or "projects" shall mean any area or place operated or to be operated by the authority for the parking or storing of motor and other vehicles and shall, without limiting the foregoing, include all real and personal property, driveways, roads, approaches, structures, terminals of all kinds, garages, meters, mechanical equipment, and all appurtenances and facilities either on, above or under the ground which are used or usable in connection with such parking or storing of such vehicles in the area of the city.

§ 1621-c. Middletown parking authority. 1. A board to be known as the "Middletown parking authority" is hereby created. The board shall be a body corporate and politic, constituting a public benefit corporation, and its existence shall commence upon the appointment of the members as provided in this section.

2. (a) The board shall consist of a chairperson and four other members, all of whom shall be appointed by the mayor with the approval of the common council of the city. The appointment of the chairperson shall be for a term of four years. Of the other members first appointed, one shall be appointed for a period of one year, one for a period of two years, one for a period of three years, and one for a period of four years. At the expiration of such terms, the terms of office of the successors of the board members shall be four years. Each member shall continue to serve until the appointment and qualification of his or her successor. A board member may be appointed for additional terms.

(b) Vacancies on the board occurring otherwise than by the expiration of term, shall be filled for the unexpired term by the mayor with the approval of the common council.

(c) The members of the board shall choose from their number a vice-chairperson and such other officers deemed desirable by the board.

1 3. The common council may remove any member of the board for ineffi-
2 ciency, neglect of duty or misconduct in office, giving the board member
3 a copy of the charges against the board member and an opportunity of
4 being heard in person, or by counsel, in his or her defense, upon not
5 less than ten days' notice.

6 4. The members of the board shall be entitled to no compensation for
7 their services but shall be entitled to reimbursement for their actual
8 and necessary expenses incurred in the performance of their official
9 duties.

10 5. The powers of the authority shall be vested in and exercised by a
11 majority of the members of the board then in office.

12 6. The board may delegate to one or more of its members or to its
13 officers, agents and employees such powers and duties as it may deem
14 proper.

15 § 1621-d. Purpose and powers of the authority. The purpose of the
16 authority shall be to provide, operate or maintain, or any combination
17 thereof, one or more projects in the city. To carry out said purpose,
18 the authority shall have power:

19 1. To sue and be sued;

20 2. To have a seal and alter the same at pleasure;

21 3. To acquire, hold and dispose of personal property for its corporate
22 purposes, including the power to purchase prospective or tentative
23 awards in connection with the condemnation of real property;

24 4. To acquire real property subject to the approval of at least four
25 members of the common council in the name of the city by purchase or
26 condemnation or gift, and use necessary real property. All real property
27 acquired by the authority by condemnation shall be acquired in the
28 manner provided in the eminent domain procedure law, and further
29 provided, that the authority shall give the common council of the city
30 written notice of its intent to acquire any land by condemnation, where-
31 upon said common council, within a period of forty-five days after the
32 giving of such notice, by resolution voted upon affirmatively by at
33 least two members of such common council, may determine that such land
34 shall not be so acquired, in which event the authority shall be without
35 further power to so acquire the same by condemnation;

36 5. To make by-laws for the management and regulation of its affairs,
37 and, subject to agreements with bondholders, for the regulation of the
38 project;

39 6. With the consent of the city to use agents, employees, and facili-
40 ties of the city, including the corporation counsel, paying to the city
41 its agreed proportion of the compensation or costs;

42 7. To appoint an attorney, and to fix his or her compensation;

43 8. To appoint officers, agents, employees, and consultants, to
44 prescribe their qualifications and to fix their compensation; subject,
45 however, to the provisions of the civil service law, as provided in this
46 section;

47 9. To designate officers and employees, appointed or used by the
48 authority, as specified in this section, who shall be empowered to issue
49 appearance tickets as provided for in article one hundred fifty of the
50 criminal procedure law. Persons so designated are hereby authorized to
51 issue and serve such tickets for traffic infractions relating to parking
52 within "project" areas as defined herein, in accordance with law and
53 when authorized by local law of the city to issue and serve such tickets
54 for traffic infractions committed anywhere in such city including at
55 parking spaces controlled by parking meters;

1 10. To make contracts, leases, as lessor or lessee, and any operating
2 agreement, and to execute all instruments necessary or convenient;

3 11. To acquire, construct, reconstruct, improve, equip and furnish any
4 project as may be necessary or convenient;

5 12. To maintain and operate any projects;

6 13. To accept grants, loans or contributions from the United States,
7 the state of New York, or any agency or instrumentality of either of
8 them, or the city, or any person, by bequest or otherwise, and to expend
9 the proceeds for any purposes of the authority;

10 14. To fix and collect rentals, fees and other charges for the use of
11 any project and to pledge the same, all subject to and in accordance
12 with such agreements with bondholders as may be made as hereinafter
13 provided;

14 15. To construct, operate or maintain in the projects all facilities
15 and equipment necessary or convenient in connection therewith; and to
16 contract for the providing, operation or maintenance of any parts there-
17 of or for services to be performed; to rent parts thereof, and grant
18 concessions, all on such terms and conditions as it may determine;
19 provided, however, that neither the authority, the city, or any agency
20 of the authority or city, or any other person, firm or corporation
21 shall, within or on any property comprising a part of any project
22 authorized by this title, sell, dispense or otherwise handle any product
23 used in or for the servicing of any motor vehicle using any project or
24 facilities authorized by this title.

25 § 1621-e. Civil service status of officers and employees. Officers and
26 employees of any board, commission or department of the city may be
27 transferred to the authority in accordance with the provisions of the
28 civil service law and shall be eligible for such transfer and appoint-
29 ment without examination to offices and positions under the authority.
30 Officers and employees of the city who are members or beneficiaries of
31 any existing pension or retirement system shall continue to have the
32 rights, privileges, obligations and status with respect to such system
33 or systems as are now prescribed by law, and all such employees who have
34 been appointed to positions in the service of the city under the rules
35 of the municipal civil service commission of the city shall have the
36 same status with respect thereto after transfer to the authority as they
37 had under their original appointments. The appointment and promotion of
38 all employees of the authority shall be made in accordance with the
39 provisions of the civil service law and all employees of the authority
40 shall have the same rights and benefits as city employees.

41 § 1621-f. Conveyance of property by the city to the authority; acqui-
42 sition of property by the city or by the authority. 1. The city may, by
43 resolution or resolutions of the common council or by instruments
44 authorized by such resolutions, convey, with or without consideration,
45 to the authority real and personal property owned by the city for use by
46 the authority as a project or projects or a part thereof or in
47 connection therewith and pledge and pay to the authority, as security
48 for its bonds, notes or other liabilities, certain revenues and income
49 of the city from parking facilities owned or operated by the city. In
50 case of real property so conveyed, the title thereto shall remain in the
51 city but the authority shall have the use and occupancy thereof for so
52 long as its corporate existence shall continue, unless otherwise
53 provided for by the authority and the city. In the case of personal
54 property so conveyed, the title shall pass to the authority.

55 2. The city may acquire by gift, purchase or condemnation real proper-
56 ty in the name of the city for any of the projects or for the widening

1 of existing roads, streets, parkways, avenues or highways or for new
2 roads, streets, parkways, avenues or highways to any of the projects, or
3 partly for such purposes and partly for other city purposes, by gift,
4 purchase or condemnation in the manner provided by law for the acqui-
5 sition of real property by the city. For like purposes, the city may
6 close such streets, roads, parkways, avenues, or highways as may be
7 necessary or convenient, except as to state highways and arterial ways
8 which may not be closed without the consent of the state commissioner of
9 transportation.

10 3. Contracts may be entered into between the city and the authority
11 providing for the property to be conveyed or pledged or paid by the city
12 to the authority, the additional property to be acquired by the city and
13 so conveyed, the streets, roads, parkways, avenues, and highways to be
14 closed by the city and the amounts, terms and conditions of payment to
15 be made by the authority. Such contracts may also contain covenants by
16 the city as to the road, street, parkway, avenue and highway improve-
17 ments to be made by the city and as to such matters which pertain to any
18 conveyance or pledge and payment of moneys or property to the authority.
19 Any such contracts between the city and the authority may be pledged by
20 the authority to secure its bonds and notes and may not be modified
21 thereafter except as provided by the terms of such contract and such
22 pledge. The common council may authorize such contracts between the city
23 and the authority and no other authorization on the part of the city for
24 such contracts shall be necessary. Any such contracts may be so author-
25 ized and entered into by the city and in such manner as the common coun-
26 cil may determine, and the payments required to be made by the city may
27 be made and financed notwithstanding that no provision therefor shall
28 have first been made in the capital budget of the city. All contractual
29 or other obligations of the city incurred in carrying out the provisions
30 of this title shall be included in and provided for by each capital
31 budget of the city thereafter made, if and to the extent that they may
32 appropriately be included therein.

33 4. Subject to subdivision four of section sixteen hundred twenty-one-d
34 of this title, the authority may itself, subject to prior approval of
35 the common council, acquire, in the name of the city, real property
36 necessary or convenient in connection with any project at the cost and
37 expense of the authority by purchase or condemnation pursuant to the
38 eminent domain procedure law. The authority shall have the use and
39 occupancy of such real property so long as its corporate existence shall
40 continue.

41 5. In case the authority shall have the use and occupancy of any real
42 property which it shall determine is no longer required for a project,
43 then, if such real property was acquired at the cost and expense of the
44 city, the authority shall have power to surrender its use and occupancy
45 thereof to the city, or, if such real property was acquired at the cost
46 and expense of the authority, then the authority shall have power to
47 sell, lease or otherwise dispose of said real property at public sale,
48 and shall retain and have the power to use the proceeds of sale, rentals
49 or other moneys derived from the disposition thereof for its purposes.

50 § 1621-g. Construction and purchase contracts. 1. The authority shall
51 let contracts for construction in the same manner, so far as practica-
52 ble, as is provided by law for contracts for the city, except that where
53 the estimated expense of a contract does not exceed five thousand
54 dollars such contract may be entered into without public letting. Noth-
55 ing in this section shall be construed to limit the power of the author-
56 ity to do any construction directly by the officers, agents and employ-

ees of the authority. Contracts for the purchase of supplies, materials and equipment shall be let in the same manner as is provided by law for contracts of the city.

2. For the purposes of article fifteen-A of the executive law only, the authority shall be deemed a state agency, as the term is used in such article, and its contracts for design, construction, services and materials shall be deemed state contracts within the meaning of that term as set forth in such article.

§ 1621-h. Moneys of the authority. All moneys of the authority shall be paid to the city treasurer of the city as agent of the authority, who shall not commingle such moneys with any other moneys. Such moneys shall be deposited in a separate bank account or accounts. The moneys in such accounts shall be paid out by the city treasurer of the city on requisition of the chairperson of the authority or of such other person or persons as the authority may authorize to make such requisitions after audit by the city treasurer of the city. All deposits of such moneys shall be secured by obligations of the United States or of the state of New York of a market value equal at all times to the amount of the deposit, and all banks and trust companies are authorized to give such security for such deposits. The treasurer of the city and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing. The authority shall have power, notwithstanding the provisions of this section, to contract with the holders of any of its bonds or notes as to the custody, collection, securing, investment and payment of any moneys of the authority or any moneys held in trust or otherwise for the payment of bonds or notes or in any way to secure bonds or notes, and to carry out any such contract notwithstanding that such contract may be inconsistent with the previous provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the authority, and all banks and trust companies are authorized to give such security for such deposits. The accounts of the authority shall be subject to the supervision of the state comptroller. The authority shall render a complete account of its proceedings to the common council at its first meeting of each year and at such other times as may reasonably be requested by the common council.

§ 1621-i. Bonds of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue its negotiable bonds for any of its corporate purposes and to pay such expenses, costs and payments as may be deemed by the board necessary or desirable to or in connection with the acquisition, construction, reconstruction, improving, equipping and furnishing of any project and the financing thereof, including surveys, planning, provisions for capitalized interest, reserve funds and appropriate feasibility studies, and for the placing of the project or projects in operation. The aggregate principal amount of such bonds outstanding at any one time shall not exceed twenty-five percent of the bonded indebtedness limitation from time to time imposed by section 104.00 of the local finance law. The authority shall have power from time to time and whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured and may issue bonds partly to refund bonds then outstanding and partly for any other purpose described

1 in this subdivision. The refunding bonds may be exchanged for the bonds
2 to be refunded with such cash adjustments as may be agreed, or may be
3 sold and the proceeds applied to the purchase, payment or redemption of
4 the bonds to be refunded. Except as may otherwise be expressly provided
5 by the authority, the bonds of every issue shall be general obligations
6 of the authority payable out of any moneys or revenues of the authority,
7 subject only to any agreements with the holders of particular bonds
8 pledging any particular moneys or revenues. Whether or not the bonds are
9 of such form and character as to be negotiable instruments under article
10 eight of the uniform commercial code, the bonds shall be, and are hereby
11 made, negotiable instruments within the meaning of and for all the
12 purposes of the uniform commercial code, subject only to the provisions
13 of the bonds for registration.

14 2. The bonds shall be authorized by resolution of the board and shall
15 bear such date or dates, mature at such time or times, not exceeding
16 thirty years from their respective dates, bear interest at such rate or
17 rates, payable annually or semi-annually, be in such denominations, be
18 in such form, either coupon or registered, carry such registration priv-
19 ileges, be executed in such manner, be payable in lawful money of the
20 United States of America at such place or places, and be subject to such
21 terms of redemption, as such resolution or resolutions may provide. The
22 bonds may be sold at public or private sale for such price or prices as
23 the authority shall determine; provided, however, that any private sale
24 shall be subject to the approval of the state comptroller where such
25 sale is not to the comptroller, or the director of the budget where such
26 sale is to the comptroller.

27 3. Any resolution or resolutions authorizing any bonds or any issue of
28 bonds may contain provisions, which shall be a part of the contract with
29 the holders of the bonds thereby authorized, as to:

30 (a) pledging all or any part of the revenues of a project or projects
31 and revenues and income of the authority to secure the payment of the
32 bonds, subject to such agreements with bondholders as may then exist;

33 (b) the rentals, fees and other charges to be charged, and the amounts
34 to be raised in each year thereby, and the use and disposition of the
35 revenues;

36 (c) the setting aside of reserves or sinking funds, and the regulation
37 and disposition thereof;

38 (d) limitations on the right of the authority to restrict and regulate
39 the use of a project;

40 (e) limitations on the purpose to which the proceeds of sale of any
41 issue of bonds then or thereafter to be issued may be applied and pledg-
42 ing such proceeds to secure the payment of the bonds or of any issue of
43 the bonds;

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

47 (g) the procedure, if any, by which the terms of any contract with
48 bondholders may be amended or abrogated, the amount of bonds the holders
49 of which must consent thereto, and the manner in which such consent may
50 be given;

51 (h) limitations on the amount of moneys derived from a project to be
52 expended for operating, administrative or other expenses of the authori-
53 ty;

54 (i) vesting in a trustee or trustees such property, rights, powers and
55 duties in trust as the authority may determine which may include any or
56 all, the rights, powers and duties of the trustee appointed by the bond-

1 holders pursuant to section sixteen hundred twenty-one-p of this title,
2 and limiting or abrogating the right of the bondholders to appoint a
3 trustee under said section or limiting the rights, duties and powers of
4 such trustee;

5 (j) any other matters, of like or different character, which in any
6 way affect the security or protection of the bonds.

7 4. Notwithstanding any other provision of law, it is the intention
8 hereof that any pledge of revenues or other moneys made by the authority
9 shall be valid and binding from the time when the pledge is made; that
10 the revenues or other moneys so pledged and thereafter received by the
11 authority shall immediately be subject to the lien of such pledge with-
12 out any physical delivery thereof or further act; and that the lien of
13 any such pledge shall be valid and binding as against all parties having
14 claims of any kind in tort, contract or otherwise against the authority
15 irrespective of whether such parties have notice thereof. Neither the
16 resolution nor any other instrument by which a pledge is created need be
17 recorded or filed in order to protect the security interest granted.

18 5. Neither the members of the authority nor any person executing the
19 bonds shall be liable personally on the bonds or be subject to any
20 personal liability or accountability by reason of the issuance thereof.

21 6. The authority shall have power out of any funds available therefor
22 to purchase bonds upon such terms and conditions as the authority may
23 determine. The authority may hold, cancel or resell such bonds, subject
24 to and in accordance with agreements with bondholders.

25 7. In the discretion of the authority, the bonds may be secured by a
26 trust indenture by and between the authority and a corporate trustee,
27 which may be any trust company, bank or national banking association
28 having the powers of a trust company in the state of New York. Such
29 trust indenture may contain such provisions for protecting and enforcing
30 the rights and remedies of the bondholders as may be reasonable and
31 proper and not in violation of law, including covenants setting forth
32 the duties of the authority in relation to the construction, mainte-
33 nance, operation, repair and insurance of the project or projects, and
34 the custody, safeguarding and application of all moneys, and may provide
35 that the project or projects shall be constructed and paid for under the
36 supervision and approval of consulting engineers. The authority may
37 provide by such trust indenture for the payment of the proceeds of the
38 bonds and the revenues of the project or projects or other revenues of
39 the authority to the trustee under such trust indenture or other deposi-
40 tory, and for the method of disbursement thereof, with such safeguards
41 and restrictions as it may determine. All expenses incurred in carrying
42 out such trust indenture may be treated as a part of the cost of mainte-
43 nance, operation, and repairs of the project or projects. If the bonds
44 shall be secured by a trust indenture, the bondholders shall have no
45 authority to appoint a separate trustee to represent them, and the trus-
46 tee under such trust indenture shall have and possess all of the powers
47 which are conferred by section sixteen hundred twenty-one-p of this
48 title upon a trustee appointed by bondholders.

49 § 1621-j. Notes of the authority. The authority shall have power from
50 time to time to issue notes and from time to time to issue renewal notes
51 (hereafter "notes"), maturing not later than five years from their
52 respective original dates in an amount not exceeding at any one time one
53 hundred thousand dollars, over and above the amount of bonds authorized
54 by subdivision one of section sixteen hundred twenty-one-i of this
55 title, for any purpose or purposes for which bonds may be issued, when-
56 ever the authority shall determine that payment thereof can be made in

1 full from any moneys or revenues which the authority expects to receive
2 from any source. The authority may pledge such moneys or revenues or
3 source thereof (subject to any other pledge thereof) for the payment of
4 the notes and may in addition secure the notes in the same manner and
5 with the same effect as herein provided for bonds. The notes shall be
6 sold and issued in the same manner as bonds. The authority shall have
7 power to make contracts for the future sale from time to time of the
8 notes, by which the purchaser shall be committed to purchase the notes
9 from time to time on terms and conditions stated in such contracts, and
10 the authority shall have power to pay such consideration as it shall
11 deem proper for such commitments. In case of default on its notes, or
12 violation of any of the obligations of the authority to the noteholders,
13 the noteholders shall have all the remedies provided herein for bond-
14 holders. Such notes shall be as fully negotiable as the bonds of the
15 authority.

16 § 1621-k. Agreements of the city and the state. 1. The city is author-
17 ized to, and the state of New York does hereby pledge to and agree with
18 the holders of the bonds or notes that neither the city nor the state,
19 respectively, will limit or alter the rights hereby vested in the
20 authority to acquire, construct, reconstruct, improve, equip, furnish,
21 maintain or operate any project or projects, to establish and collect
22 rentals, fees and other charges and to fulfill the terms of any agree-
23 ments made with the holders of the bonds or notes, or in any way impair
24 the rights and remedies of the bondholders or noteholders, until the
25 bonds or notes, together with interest thereon, with interest on any
26 unpaid installments of interest and all costs and expenses in connection
27 with any action or proceeding by or on behalf of the bondholders or
28 noteholders, are fully met and discharged.

29 2. The authority is hereby authorized, in its discretion, for and on
30 behalf of itself and, subject to approval by the common council and the
31 mayor of the city of Middletown, to covenant and agree with the holders
32 of the bonds or notes, with such exceptions and limitations as it may
33 deem in the public interest and in the interests of the authority's
34 bondholders and noteholders, that no public parking areas or spaces,
35 including the installation and operation of parking meters on the public
36 streets of the city, except those acquired and operated by the authority
37 will be constructed or operated in the city by the city (except as here-
38 inafter provided), or by any public benefit or other corporation, the
39 members of which are elected or appointed by city officials, until
40 either: (a) the bonds or notes, together with interest thereon, interest
41 on any unpaid installments of interest and all costs and expenses in
42 connection with any action or proceeding by or on behalf of the bond-
43 holders or noteholders are fully met and discharged; or (b) principal or
44 interest of any of the bonds or notes shall be overdue and unpaid for a
45 period of three years or more; provided, however, nothing contained in
46 this section shall be deemed to impair the right of the city to continue
47 to operate the presently existing municipal parking facilities and any
48 replacements thereof.

49 § 1621-l. State and city not liable on bonds. The bonds, notes and
50 other obligations of the authority shall not be a debt of the state of
51 New York or of the city, and neither the state nor the city shall be
52 liable thereon, nor shall they be payable out of any funds other than
53 those of the authority.

54 § 1621-m. Bonds and notes legal investments for public officers and
55 fiduciaries. The bonds and notes are hereby made securities in which all
56 public officers, and bodies of the state and all municipalities and

1 municipal subdivisions, all insurance companies and associations and
2 other persons carrying on an insurance business, all banks, bankers,
3 trust companies, savings banks and savings associations, including
4 savings and loan associations, building and loan associations, invest-
5 ment companies and other persons carrying on a banking business, all
6 administrators, guardians, executors, trustees and other fiduciaries and
7 all other persons whatsoever who are now or may hereafter be authorized
8 to invest in bonds or other obligations of the state, may properly and
9 legally invest funds including capital in their control or belonging to
10 them. The bonds and notes are also hereby made securities which may be
11 deposited with and shall be received by all public officers and bodies
12 of this state and all municipalities and municipal subdivisions for any
13 purpose for which the deposit of bonds or other obligations of this
14 state is now or may hereafter be authorized.

15 § 1621-n. Tax exemptions. 1. It is hereby determined that the creation
16 of the authority and the carrying out of its corporate purposes is in
17 all respects for the benefit of the people of the city of Middletown and
18 its environs, and is a public purpose, and the authority shall be
19 regarded as performing an essential governmental function in the exer-
20 cise of the powers conferred upon it by this title and shall be required
21 to pay no taxes or assessments upon any of the property acquired by it
22 or under its jurisdiction or control or supervision or upon its activ-
23 ities.

24 2. Any bonds or notes issued pursuant to this title, together with the
25 income therefrom, as well as the property of the authority, shall be
26 exempt from taxation, except for transfer and estate taxes.

27 § 1621-o. Tax contract by the state. The state of New York covenants
28 with the purchasers and with all subsequent holders and transferees of
29 bonds or notes issued by the authority pursuant to this title, in
30 consideration of the acceptance of and payment for the bonds or notes,
31 that the bonds or notes of the authority issued pursuant to this title
32 and the income therefrom, and all moneys, funds and revenues pledged to
33 pay or secure the payment of such bonds or notes, shall at all times be
34 free from taxation except for estate taxes and taxes on transfers by or
35 in contemplation of death.

36 § 1621-p. Remedies of bondholders. 1. In the event that the authority
37 shall default in the payment of principal of or interest on any issue of
38 the bonds after the same shall become due, whether at maturity or upon
39 call for redemption, and such default shall continue for a period of
40 thirty days, or in the event that the authority shall fail or refuse to
41 comply with the provisions of this title, or shall default in any agree-
42 ment made with the holders of any issue of the bonds, the holders of
43 twenty-five per centum in aggregate principal amount of the bonds of
44 such issue then outstanding, by instrument or instruments filed in the
45 office of the clerk of the county of Orange and proved or acknowledged
46 in the same manner as a deed to be recorded, may appoint a trustee to
47 represent the holders of such bonds for the purposes provided in this
48 section.

49 2. Such trustee may, and upon written request of the holders of twen-
50 ty-five per centum in principal amount of such bonds then outstanding
51 shall, in the trustee's own name:

52 (a) by mandamus or other suit, action or proceeding, at law or in
53 equity, enforce all rights of the bondholders, including the right to
54 require the authority to collect revenues adequate to carry out by any
55 agreement as to, or pledge of, such revenues, and to require the author-

1 ity to carry out any other agreements with the holders of such bonds and
2 to perform its duties under this title;

3 (b) bring suit upon such bonds;

4 (c) by action or suit in equity, require the authority to account as
5 if it were the trustee of an express trust for the holders of such
6 bonds;

7 (d) by action or suit in equity, enjoin any acts or things which may
8 be unlawful or in violation of the rights of the holders of such bonds;

9 (e) declare all such bonds due and payable, and if all defaults shall
10 be made good then with the consent of the holders of twenty-five per
11 centum of the principal amount of such bonds then outstanding, to annul
12 such declaration and its consequences.

13 3. The supreme court shall have jurisdiction of any suit, action or
14 proceeding by the trustee on behalf of bondholders. The venue of any
15 such suit, action or proceeding shall be laid in the county of Orange.

16 4. Before declaring the principal of all such bonds due and payable,
17 the trustee shall first give thirty days' notice in writing to the
18 authority.

19 5. Any such trustee, whether or not the issue of bonds represented by
20 such trustee has been declared due and payable, shall be entitled as of
21 right to the appointment of a receiver of any part or parts of the
22 project the revenues of which are pledged for the security of the bonds
23 of such issue, and such receiver may enter and take possession of such
24 part or parts of the project and, subject to any pledge or agreement
25 with bondholders, shall take possession of all moneys and other property
26 derived from or applicable to the acquisition, construction, operation,
27 maintenance and reconstruction of such part or parts of the project and
28 proceed with the acquisition of any real property necessary or conven-
29 ient in connection with the project that the authority has covenanted to
30 construct, and with any construction which the authority is under obli-
31 gation to do and to operate, maintain and reconstruct such part or parts
32 of the project and collect and receive all revenues thereafter arising
33 therefrom subject to any pledge thereof or agreement with bondholders
34 relating thereto and perform the public duties and carry out the agree-
35 ments and obligations of the authority under the direction of the court.
36 In any suit, action or proceeding by the trustee, the fee, counsel fees
37 and expenses of the trustee and of the receiver, if any, shall consti-
38 tute taxable disbursements and all costs and disbursements allowed by
39 the court shall be a first charge on any revenues derived from such
40 project.

41 6. Such trustee shall, in addition to the foregoing, have and possess
42 all of the powers necessary or appropriate for the exercise of any func-
43 tions specifically set forth in this section or incident to the general
44 representation of bondholders in the enforcement and protection of their
45 rights.

46 § 1621-q. Actions against the authority. 1. In every action against
47 the authority for damages, for injuries to real or personal property, or
48 for the destruction thereof, or for personal injuries or death, the
49 complaint shall contain an allegation that at least ninety days have
50 elapsed since the demand, claim or claims upon which such action is
51 founded were presented to a member of the authority, or to its secre-
52 tary, or to its chief executive officer and that the authority has
53 neglected or refused to make an adjustment or payment thereof for ninety
54 days after such presentment.

55 2. Except in an action for wrongful death, an action against the
56 authority for damages for injuries to real or personal property, or for

1 the destruction thereof, or for personal injuries, alleged to have been
2 sustained, shall not be commenced more than one year and ninety days
3 after the cause of action therefor shall have accrued, nor unless a
4 notice of claim shall have been served on the authority within the time
5 limit established by and in compliance with all requirements of section
6 fifty-e of the general municipal law. An action against the authority
7 for wrongful death shall be commenced in accordance with the notice of
8 claim and time limitation provisions of title eleven of article nine of
9 this chapter.

10 § 1621-r. Termination of the authority. Whenever all of the bonds and
11 notes issued by the authority shall have been redeemed or cancelled, and
12 all its liabilities and duties met or discharged, the authority shall
13 cease to exist and all rights, title and interests and all obligations
14 and liabilities thereof vested in or possessed by the authority shall
15 thereupon vest in and be possessed by the city of Middletown.

16 § 1621-s. Severability. If any clause, sentence, paragraph, subdivi-
17 sion, section or part of this article shall be adjudged by any court of
18 competent jurisdiction to be invalid, such judgment shall not affect,
19 impair, or invalidate the remainder thereof, but shall be confined in
20 its operation to the clause, sentence, paragraph, subdivision, section
21 or part thereof directly involved in the controversy in which such judg-
22 ment shall have been rendered. It is hereby declared to be the intent
23 of the legislature that this article would have been enacted even if
24 such invalid provisions had not been included herein.

25 § 1621-t. Inconsistent provisions in other acts superseded. Insofar as
26 the provisions of this title are inconsistent with the provisions of any
27 other act, general or special, or of any local law of the city, the
28 provisions of this title shall be controlling.

29 § 2. This act shall take effect immediately and shall expire and be
30 deemed repealed upon the occurrence of the events set forth in section
31 1621-r of title 21 of article 7 of the public authorities law, as added
32 by section one of this act. Upon such occurrence, the mayor of the city
33 of Middletown shall notify the legislative bill drafting commission in
34 order that the commission may maintain an accurate and timely effective
35 data base of the official text of the laws of the state of New York in
36 furtherance of effectuating the provisions of section 44 of the legisla-
37 tive law and section 70-b of the public officers law.