

6724

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. BRENNAN, ORTIZ -- Multi-Sponsored by -- M. of A. AUBRY, CLARK, COLTON, GOTTFRIED, GUNTHER, JACOBS, NOLAN, PHEFFER, ROSENTHAL, RUSSELL, SWEENEY -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law and the general city law, in relation to the creation of city public utility districts and the provision of light, heat, power and energy to such districts by the power authority of the state of New York

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The public authorities law is amended by adding a new
2 section 1005-b to read as follows:

3 S 1005-B. CONTRACTS WITH THE AUTHORITY. 1. A. THE AUTHORITY IS AUTHOR-
4 IZED AND, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE, DIRECTED TO
5 ENTER INTO CONTRACTS WITH CITIES FOR THE PROVISION OF LIGHT, HEAT,
6 POWER, ENERGY OR ENERGY CONSERVATION SERVICES TO CITY PUBLIC UTILITY
7 DISTRICTS ESTABLISHED OR EXTENDED PURSUANT TO ARTICLE FIVE OF THE GENER-
8 AL CITY LAW.

9 B. THE AUTHORITY SHALL NOT UNREASONABLY DENY ANY REQUEST OF A CITY TO
10 ENTER INTO A CONTRACT DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION, AND
11 MAY PROVIDE, AT THE REQUEST OF ANY CITY ON BEHALF OF A CITY PUBLIC UTIL-
12 ITY DISTRICT, ANY SERVICES REASONABLY RELATED TO THE PREPARATION OF A
13 DISTRICT PLAN AS DEFINED IN SECTION SEVENTY-B OF THE GENERAL CITY LAW
14 AND BE REIMBURSED BY SUCH CITY FOR SUCH SERVICES.

15 2. A. THE AUTHORITY MAY, PURSUANT TO ANY CONTRACT ENTERED INTO WITH A
16 CITY, CONSTRUCT AND/OR ACQUIRE BY PURCHASE, CONDEMNATION OR OTHERWISE
17 ANY LAND, STRUCTURES, EQUIPMENT OR FACILITIES NECESSARY FOR THE
18 PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES.

19 B. THE AUTHORITY MAY REQUEST THE STATE PUBLIC SERVICE COMMISSION, THE
20 CITY WITH WHICH IT HAS ENTERED OR IS ENTERING INTO A CONTRACT OR ANY
21 UTILITY RENDERING SERVICES PURSUANT TO THE PROVISIONS OF THE PUBLIC

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

LBD05248-01-9

SERVICE LAW TO FURNISH SUCH BOOKS, RECORDS, MAPS, CUSTOMER ACCOUNTS AND OTHER INFORMATION REASONABLY NECESSARY TO THE AUTHORITY FOR THE PROVISION OF THE SERVICES DESCRIBED IN SUCH CONTRACT. THE AUTHORITY MAY COMPEL THE PRODUCTION OF SUCH INFORMATION PURSUANT TO SECTION ONE THOUSAND SIX OF THIS TITLE.

3. A. ON FEBRUARY FIRST IN EACH CALENDAR YEAR, THE AUTHORITY SHALL SUBMIT TO THE LOCAL LEGISLATIVE BODY OF EACH CITY A PROPOSED CONTRACT SETTING FORTH A CAPITAL IMPROVEMENT PLAN FOR EACH CITY PUBLIC UTILITY DISTRICT IN WHICH THE AUTHORITY IS RENDERING SERVICE. IN ADDITION, THE AUTHORITY SHALL FORWARD A COPY OF SUCH PLAN TO EACH AFFECTED CITY PUBLIC UTILITY DISTRICT COUNCIL.

B. THE AUTHORITY MAY CONTRACT WITH ANY CITY, OR A CITY PUBLIC UTILITY DISTRICT COUNCIL WITH THE PERMISSION OF SUCH CITY, TO ACT AS THE AGENT OF THE AUTHORITY TO RENDER SUCH SERVICES AS THE AUTHORITY MAY DEEM NECESSARY OR CONVENIENT IN THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES TO A CITY PUBLIC UTILITY DISTRICT.

4. A. THE AUTHORITY SHALL PROVIDE TO THE LOCAL LEGISLATIVE BODY AND TO THE CITY PUBLIC UTILITY DISTRICT AN ANNUAL REPORT ON THE OPERATIONS OF ITS SERVICES FOR EACH CITY PUBLIC UTILITY DISTRICT, INCLUDING A FINANCIAL STATEMENT AS TO THE ASSETS, LIABILITIES, REVENUES AND EXPENSES OF THE DISTRICT CERTIFIED BY AN INDEPENDENT PUBLIC ACCOUNTANT.

B. PROCEEDS OF ANY CHARGES FOR LIGHT, HEAT, STEAM, POWER OR ENERGY TO ANY SUCH DISTRICT SHALL FIRST BE PLACED IN A SEPARATE ACCOUNT BY THE AUTHORITY FOR SUCH PUBLIC UTILITY DISTRICT, AND NOT COMMINGLED WITH ANY OTHER FUNDS OF THE AUTHORITY UNTIL SUCH PROCEEDS AND DISBURSEMENTS SHALL HAVE BEEN ENTERED INTO THE CITY'S BOOKS OF ACCOUNT IN THE CITY PUBLIC UTILITY DISTRICT ACCOUNT.

5. A. THE AUTHORITY SHALL AT ALL TIMES MAINTAIN FINAL CONTROL OF THE RATES AND CHARGES, EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, FOR THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES. SUCH RATES AND CHARGES SHALL BE JUST AND REASONABLE, AND SHALL COVER THE OPERATIONS AND MAINTENANCE OF THE SERVICES, INCLUDING FUEL AND PURCHASED POWER, A REASONABLE PROVISION FOR DEPRECIATION, WORKING CAPITAL AND THE PAYMENT OF PRINCIPAL AND INTEREST ON SUCH NOTES AND BONDS OF THE AUTHORITY AS MAY HAVE BEEN ISSUED INCIDENT TO THE PROVISION OF SUCH SERVICES. IN ADDITION, THE LOCAL LEGISLATIVE BODY AND THE AUTHORITY MAY CONTRACT FOR THE AUTHORITY TO MAKE PAYMENTS IN LIEU OF TAXES TO THE CITY.

B. THE AUTHORITY, THE LOCAL LEGISLATIVE BODY AND THE DISTRICT COUNCIL MAY CONTRACT FOR A SURCHARGE IN SUCH RATES AND CHARGES TO COVER THE ACCUMULATION OF ANY EQUITY INTEREST IN ANY FACILITIES ACQUIRED OR CONSTRUCTED BY THE AUTHORITY ON BEHALF OF THE REAL PROPERTY OWNERS, TENANTS, RATEPAYERS AND CITIZENS OF THE CITY PUBLIC UTILITY DISTRICT.

S 2. The general city law is amended by adding a new article 5 to read as follows:

ARTICLE 5

CITY PUBLIC UTILITY DISTRICT LAW

SECTION 70. SHORT TITLE.

70-A. LEGISLATIVE FINDINGS AND DECLARATION OF INTENT.

70-B. DEFINITIONS.

70-C. LOCAL ADOPTION OF ARTICLE.

70-D. LEGISLATIVE POWERS.

70-E. DISTRICT PLAN.

70-F. NOTICE AND HEARING.

70-G. CREATION OR EXTENSION OF THE DISTRICT.

70-H. PUBLICATION; FILING; JUDICIAL REVIEW.

1 70-I. CAPITAL IMPROVEMENTS.

2 70-J. DISTRICT COUNCILS.

3 S 70. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE
4 "CITY PUBLIC UTILITY DISTRICT LAW".

5 S 70-A. LEGISLATIVE FINDINGS AND DECLARATION OF INTENT. IT IS HEREBY
6 FOUND AND DECLARED THAT THE HIGH COST OF ENERGY AND POWER IN THE STATE
7 OF NEW YORK AND ESPECIALLY THE CITY OF NEW YORK ARE DETRIMENTAL TO THE
8 PROSPERITY AND ECONOMIC WELL-BEING OF THE CITIZENS AND BUSINESSES OF THE
9 STATE. AT THE SAME TIME, TECHNOLOGICAL ADVANCES IN THE PROVISION OF
10 ENERGY AND INCREASES IN THE RELATIVE VALUE OF BYPRODUCT HEAT HAVE
11 RESULTED IN THE POSSIBILITY OF THE ECONOMIC PROVISION OF LIGHT, HEAT AND
12 POWER ON A SMALL-SCALE BASIS. IN ORDER TO ALLOW THE PEOPLE AND BUSINESS
13 OF THE STATE AND CITY OF NEW YORK TO REALIZE THE BENEFITS OF THE
14 LOW-COST PROVISION OF LIGHT, HEAT AND POWER IN A MANNER COMPATIBLE WITH
15 THE NEEDS AND DESIRES OF CITIZENS IN A DEMOCRACY, AND TO PROVIDE YARDST-
16 ICKS FOR THE PERFORMANCE OF UTILITY COMPANIES PROVIDING SERVICE PURSUANT
17 TO THE PROVISIONS OF THE PUBLIC SERVICE LAW, THE LEGISLATURE HEREBY
18 FINDS THE CREATION OF CITY PUBLIC UTILITY DISTRICTS TO BE AN EFFECTIVE
19 MEANS OF REDUCING THE COST OF ENERGY AND POWER.

20 S 70-B. DEFINITIONS. WHEN USED IN THIS ARTICLE THE FOLLOWING WORDS
21 SHALL HAVE THE FOLLOWING MEANINGS:

22 (A) "DISTRICT" MEANS A CITY PUBLIC UTILITY DISTRICT ESTABLISHED PURSU-
23 ANT TO THIS ARTICLE.

24 (B) "AUTHORITY" MEANS THE POWER AUTHORITY OF THE STATE OF NEW YORK.

25 (C) "DISTRICT COUNCIL" MEANS THE COUNCIL ESTABLISHED PURSUANT TO
26 SECTION SEVENTY-J OF THIS ARTICLE.

27 (D) "DISTRICT PLAN" OR "PLAN" MEANS A PROPOSAL WHICH INCLUDES:

28 (1) A MAP OF THE DISTRICT;

29 (2) THE WRITTEN REPORT OR REPORTS OF THE LEGISLATIVE BODY CONTAINING A
30 DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR
31 EXTENSION IN A MANNER SUFFICIENT TO IDENTIFY THE FACILITIES TO BE
32 ACQUIRED OR CONSTRUCTED, THE LANDS TO BE INCLUDED, THE PRESENT AND
33 PROPOSED USES OF THESE LANDS OR FACILITIES, THE MAXIMUM TOTAL AND ANNUAL
34 AMOUNT PROPOSED TO BE EXPENDED FOR THE ACQUISITION OR CONSTRUCTION OF
35 SUCH LAND AND FACILITIES AND THEIR MAINTENANCE AND OPERATION, THE
36 PROPOSED SOURCE OR SOURCES OF FINANCING, AND THE PROPOSED TIME FOR
37 IMPLEMENTATION AND COMPLETION OF THE PLAN;

38 (3) ANY OTHER ITEM OR MATTER REQUIRED TO BE INCORPORATED THEREIN BY
39 THE LEGISLATIVE BODY.

40 (E) "FACILITIES" MEANS ANY LAND, STRUCTURES, AND/OR EQUIPMENT TO BE
41 ACQUIRED OR CONSTRUCTED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION
42 OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION.

43 (F) "LEGISLATIVE BODY" MEANS THE CITY BODY EMPOWERED TO ADOPT AND
44 AMEND LOCAL LAWS AND ORDINANCES, EXCEPT THAT IN A CITY OF ONE MILLION OR
45 MORE THE TERM "LEGISLATIVE BODY" SHALL MEAN THE BOARD OF ESTIMATE, WHICH
46 MAY ACT BY RESOLUTION, RATHER THAN BY LOCAL LAW, WHERE THE LEGISLATIVE
47 BODY IS OTHERWISE REQUIRED BY THIS ARTICLE TO ACT BY LOCAL LAW.

48 (G) "VOTER" MEANS A PERSON QUALIFIED TO VOTE UNDER THE PROVISIONS OF
49 THE ELECTION LAW AT THE TIME SUCH PERSON SIGNS ANY PETITION DESCRIBED IN
50 SECTION SEVENTY-E OF THIS ARTICLE.

51 S 70-C. LOCAL ADOPTION OF ARTICLE. EVERY CITY IS AUTHORIZED TO ADOPT A
52 LOCAL LAW, SUBJECT TO PERMISSIVE REFERENDUM, PROVIDING THAT THE
53 PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE TO THE CREATION OR EXTEN-
54 SION OF DISTRICTS IN THE CITY.

55 S 70-D. LEGISLATIVE POWERS. UPON THE CREATION OF A DISTRICT PURSUANT
56 TO THE PROVISIONS OF THIS ARTICLE, ANY CITY SHALL HAVE AUTHORITY TO

EXERCISE THE FOLLOWING POWERS WITH RESPECT TO SUCH DISTRICT, SUBJECT TO THE PROVISIONS OF THIS ARTICLE:

(A) TO CONTRACT ON BEHALF OF ALL OR A PART OF THE DISTRICT WITH THE POWER AUTHORITY OF THE STATE OF NEW YORK FOR THE ACQUISITION OR CONSTRUCTION OF LAND, FACILITIES, STRUCTURES OR EQUIPMENT FOR THE PROVISION OF LIGHT, HEAT, STEAM, ELECTRIC POWER AND OTHER FORMS OF ENERGY FOR GENERAL PUBLIC USE ON A REASONABLE, NONDISCRIMINATORY BASIS TO ALL OR PART OF THE DISTRICT. ANY SUCH CONTRACT SHALL CONTAIN PROVISIONS CONFORMING THE RENDERING OF ANY PUBLIC UTILITY SERVICE AS DEFINED IN THE PUBLIC SERVICE LAW WITH THE PROVISIONS OF THE PUBLIC SERVICE LAW RESPECTING APPLICATIONS FOR, AND TERMINATIONS OF, ELECTRIC SERVICE FOR RESIDENTIAL CUSTOMERS, AND PROHIBITING ANY UNDUE OR UNREASONABLE PREFERENCES OR DISCRIMINATIONS BETWEEN CLASSES OF CUSTOMERS.

(B) TO CONTRACT TO ACT AS THE AUTHORITY'S AGENT FOR THE RENDERING OF ANY SERVICES, MATERIALS, SUPPLIES, STUDIES, ENGINEERING OR DESIGN WORK NECESSARY AND/OR CONVENIENT FOR THE AUTHORITY IN THE PROVISION OF LIGHT, HEAT, ELECTRIC POWER, STEAM OR OTHER FORMS OF ENERGY TO ALL OR PART OF THE DISTRICT.

S 70-E. DISTRICT PLAN. (A) THE LEGISLATIVE BODY OF ANY CITY TO WHICH THE PROVISIONS OF THIS ARTICLE ARE APPLICABLE MAY PROVIDE FOR THE PREPARATION OF A DISTRICT PLAN UPON ITS OWN MOTION, OR AT THE REQUEST OF THE CHIEF EXECUTIVE OFFICER OR AN INDIVIDUAL OR AGENCY DESIGNATED BY HIM, OR UPON THE WRITTEN PETITION, SIGNED AND ACKNOWLEDGED, OF (1) THE OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE ASSESSED VALUATION OF ALL THE TAXABLE REAL PROPERTY WITHIN THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, AS SHOWN UPON THE LATEST COMPLETED ASSESSMENT ROLL OF THE CITY, AND AT LEAST FIFTY-ONE PERCENT OF THE OWNERS OF REAL PROPERTY WITHIN THE AREA INCLUDED IN THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, OR (2) TEN PERCENT OF THE VOTERS VOTING IN THE LAST GENERAL ELECTION IN AN AREA NOT LESS THAN A COUNCILMANIC DISTRICT FOR ANY CITY OTHER THAN THE CITY OF NEW YORK OR AN AREA NOT LESS THAN AN ASSEMBLY DISTRICT IN THE CITY OF NEW YORK, OR FIVE PERCENT OF ALL THE DULY REGISTERED VOTERS IN A COMMUNITY DISTRICT AS DESCRIBED IN SECTION TWENTY-SEVEN HUNDRED ONE OF THE CHARTER OF THE CITY OF NEW YORK, AS THE CASE MAY BE, FILED IN THE OFFICE OF THE CITY CLERK.

(B) SUCH PETITION SHALL PRESENT TO THE LOCAL LEGISLATIVE BODY, IN A FORM PRESCRIBED BY THE LOCAL BOARD OF ELECTIONS FOR SUCH CITY, THE REQUEST OF THE UNDERSIGNED VOTERS OF SUCH COUNCILMANIC, ASSEMBLY OR COMMUNITY DISTRICT THAT THE COUNCILMANIC, ASSEMBLY OR COMMUNITY DISTRICT BE DESIGNATED AS A CITY PUBLIC UTILITY DISTRICT. IN THE CASE OF A COMMUNITY DISTRICT, THE LOCAL BOARD OF ELECTIONS SHALL CERTIFY TO ANY PERSON OR PERSONS SEEKING SUCH INFORMATION THE NUMBER OF REGISTERED VOTERS WHICH WOULD DULY CONSTITUTE FIVE PERCENT OF ALL SUCH REGISTERED VOTERS IN SUCH COMMUNITY DISTRICT. THE PETITION MAY BE MADE UPON SEPARATE SHEETS AND THE SIGNATURES OF EACH SHALL BE AUTHENTICATED IN THE MANNER PROVIDED BY THE ELECTION LAW FOR THE AUTHENTICATION OF DESIGNATING PETITIONS. THE SEVERAL SHEETS SO SIGNED AND AUTHENTICATED WHEN FASTENED TOGETHER AND OFFERED FOR FILING SHALL BE DEEMED TO CONSTITUTE ONE PETITION. A SIGNATURE MADE EARLIER THAN ONE HUNDRED TWENTY DAYS BEFORE THE FILING SHALL NOT BE COUNTED. IF WITHIN TEN DAYS AFTER THE FILING OF SUCH PETITION A WRITTEN OBJECTION THERETO BE FILED WITH THE OFFICER WITH WHOM SUCH PETITION IS REQUIRED BY LAW TO BE FILED, THE SUPREME COURT OR ANY JUSTICE THEREOF SHALL DETERMINE ANY QUESTION ARISING THEREUNDER AND MAKE SUCH ORDER AS JUSTICE MAY REQUIRE. SUCH PROCEEDINGS SHALL BE HEARD AND DETERMINED IN THE MANNER PRESCRIBED BY THE ELECTION LAW IN RELATION TO JUDICIAL PROCEEDINGS THEREUNDER.

1 (C) THE CREATION OR EXTENSION OF A DISTRICT SHALL BE BASED UPON THE
2 DISTRICT PLAN FILED IN THE OFFICE OF THE CITY CLERK, EXCEPT AS OTHERWISE
3 PROVIDED IN THIS ARTICLE.

4 (D) IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE
5 DISTRICT PLAN SHALL FIRST BE SUBMITTED TO THE CITY PLANNING COMMISSION,
6 WHICH SHALL FORWARD SUCH PLAN WITHIN FIVE DAYS TO THE COMMUNITY BOARD OR
7 BOARDS FOR THE COMMUNITY DISTRICT OR DISTRICTS IN WHICH THE PROPOSED
8 CITY PUBLIC UTILITY DISTRICT IS LOCATED, AND TO THE RESPECTIVE BOROUGH
9 BOARD, IF THE PLAN INVOLVES PROPERTIES LOCATED IN TWO OR MORE COMMUNITY
10 DISTRICTS. EACH COMMUNITY BOARD SHALL NOTIFY THE PUBLIC OF THE PROPOSED
11 PLAN IN ACCORDANCE WITH THE REQUIREMENTS IMPOSED BY THE CITY PLANNING
12 COMMISSION, AND MAY CONDUCT A PUBLIC HEARING AND SUBMIT A WRITTEN RECOM-
13 MENDATION TO THE CITY PLANNING COMMISSION NOT LATER THAN THIRTY DAYS
14 AFTER RECEIPT OF THE PLAN. THE CITY PLANNING COMMISSION SHALL REVIEW THE
15 PLAN AND RECOMMENDATIONS AND, AFTER A PUBLIC HEARING, PREPARE A REPORT
16 FOR THE BOARD OF ESTIMATE. THE CITY PLANNING COMMISSION SHALL SUBMIT ITS
17 REPORT TO THE BOARD OF ESTIMATE, TOGETHER WITH COPIES OF ANY RECOMMENDA-
18 TION OF A COMMUNITY BOARD, WITHIN SIXTY DAYS FROM THE DATE OF EXPIRATION
19 OF THE COMMUNITY BOARD'S PERIOD FOR REVIEWING THE PLAN AND SUBMITTING
20 RECOMMENDATIONS.

21 (E) ANY DISTRICT PLAN SHALL CONFORM WITH THE REQUIREMENTS OF THIS
22 SECTION. THE LEGISLATIVE BODY MAY DETERMINE THAT THE PLAN OR ANY PART OF
23 THE PLAN SHALL BE PREPARED BY, OR UNDER THE SUPERVISION OF, CITY OFFI-
24 CERS AND EMPLOYEES TO BE DESIGNATED BY SUCH LEGISLATIVE BODY OR BY
25 PERSONS OR FIRMS TO BE EMPLOYED FOR THAT PURPOSE. THE EXPENSE INCURRED
26 FOR THE PREPARATION OF THE PLAN OR PART OF THE PLAN SHALL BE A CITY
27 CHARGE. THE STATE PUBLIC SERVICE COMMISSION AND THE POWER AUTHORITY OF
28 THE STATE OF NEW YORK SHALL, UPON REQUEST OF THE LOCAL LEGISLATIVE BODY,
29 PROVIDE SUCH ASSISTANCE AS MAY REASONABLY BE NECESSARY TO THE CITY
30 AND/OR ITS AGENTS DESIGNATED TO PREPARE SUCH A PLAN, AND THE CITY SHALL
31 REIMBURSE SUCH COMMISSION AND THE AUTHORITY FOR ALL REASONABLE AND
32 NECESSARY EXPENSES IN RELATION TO SUCH ASSISTANCE.

33 (F) IF THE CITY SHALL THEREAFTER EXTEND THE DISTRICT, THE EXPENSE
34 INCURRED BY THE CITY FOR THE PREPARATION OF THE PLAN OR ANY PART OF THE
35 PLAN SHALL BE DEEMED TO BE PART OF THE COST OF ANY IMPROVEMENT, AND THE
36 AUTHORITY SHALL REFLECT SUCH COST IN ITS BOOKS OF ACCOUNT AND IN ANY
37 BONDS OR NOTES ISSUED FOR THE PURPOSE OF PROVIDING ANY LIGHT, HEAT,
38 POWER OR ENERGY TO ALL OR PART OF A DISTRICT CREATED OR EXTENDED BY THIS
39 ARTICLE.

40 S 70-F. NOTICE AND HEARING. (A) AFTER THE FILING OF THE DISTRICT PLAN
41 IN THE OFFICE OF THE CITY CLERK, THE LEGISLATIVE BODY MAY ADOPT A RESOL-
42 UTION AND ENTER THE SAME IN THE MINUTES OF ITS PROCEEDINGS. SUCH RESOL-
43 UTION SHALL DESCRIBE THE BOUNDARIES OF THE DISTRICT PROPOSED FOR
44 CREATION OR EXTENSION IN A MANNER SUFFICIENT TO IDENTIFY THE REAL PROP-
45 erty OR AREA TO BE BENEFITTED AND INCLUDED THEREIN; THE IMPROVEMENTS
46 AND/OR SERVICES PROPOSED TO BE PROVIDED BY THE AUTHORITY, ALONG WITH THE
47 PROPOSED CONTRACT OR CONTRACTS WITH THE AUTHORITY FOR THE PROVISION OF
48 SUCH SERVICES; THE DISTRICT COUNCIL; THE FACT THAT A PLAN DESCRIBING THE
49 DISTRICT IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION AND
50 THE TIME WHEN AND THE PLACE WHERE THE LEGISLATIVE BODY WILL MEET AND
51 HOLD A PUBLIC HEARING TO HEAR ALL PERSONS INTERESTED IN THE SUBJECT
52 THEREOF, WHICH SHALL BE NO LATER THAN THIRTY DAYS AFTER THE ADOPTION OF
53 THE RESOLUTION; A STATEMENT THAT ANY OWNER OF REAL PROPERTY, DEEMED
54 BENEFITTED AND THEREFORE WITHIN THE DISTRICT, OBJECTING TO THE PLAN MUST
55 FILE AN OBJECTION AT THE OFFICE OF THE CITY CLERK WITHIN THIRTY DAYS OF
56 THE CONCLUSION OF THE HEARING ON FORMS MADE AVAILABLE BY THE CLERK AND,

1 FURTHER, THAT IF (1) OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE
2 ASSESSED VALUATION OF ALL THE TAXABLE REAL PROPERTY SITUATED WITHIN THE
3 BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, AS SHOWN
4 UPON THE LATEST COMPLETED ASSESSMENT ROLL OF THE CITY, OR (2) AT LEAST
5 FIFTY-ONE PERCENT OF THE OWNERS OF REAL PROPERTY WITHIN THE AREA
6 INCLUDED IN THE DISTRICT PROPOSED FOR CREATION OR EXTENSION SO FILE
7 THEIR OBJECTIONS, THE DISTRICT WILL NOT BE ESTABLISHED OR EXTENDED.

8 (B) THE LEGISLATIVE BODY SHALL CAUSE A COPY OF THE RESOLUTION TO BE
9 PUBLISHED AT LEAST ONCE IN THE OFFICIAL PAPER OR A NEWSPAPER IN GENERAL
10 CIRCULATION IN THE CITY, THE FIRST PUBLICATIONS TO BE NOT LESS THAN TEN
11 NOR MORE THAN THIRTY DAYS BEFORE THE DAY SET FOR THE HEARING REQUIRED BY
12 THIS SECTION. IN ADDITION, NOT LESS THAN FIFTEEN NOR MORE THAN
13 FORTY-FIVE DAYS BEFORE THE DATE SET FOR THE HEARING THE LEGISLATIVE BODY
14 SHALL CAUSE A COPY OF THE RESOLUTION TO BE MAILED TO EACH OWNER OF REAL
15 PROPERTY WITHIN THE PROPOSED DISTRICT AT THE ADDRESS SHOWN ON THE LATEST
16 CITY ASSESSMENT ROLL AND TO THE OCCUPANTS OF EACH BUILDING WITHIN THE
17 PROPOSED DISTRICT, EXCEPT IN THE CASE OF A DISTRICT PROPOSED BY A PETI-
18 TION OF VOTERS AS DESCRIBED IN PARAGRAPH TWO OF SUBDIVISION (A) OF
19 SECTION SEVENTY-E OF THIS ARTICLE, WHERE THE LEGISLATIVE BODY SHALL TAKE
20 STEPS TO APPRISE THE GENERAL PUBLIC OF THE PROPOSAL TO CREATE AND/OR
21 EXTEND THE DISTRICT INCLUDING, BUT NOT LIMITED TO, NOTICE IN AND TO
22 LOCAL NEWSPAPERS, CHURCHES, SYNAGOGUES, COMMUNITY, CIVIC AND MERCHANTS
23 ASSOCIATIONS AND OTHERS IN A MANNER DESIGNED TO CREATE THE MAXIMUM
24 FEASIBLE PUBLIC NOTICE OF SUCH HEARING.

25 (C) THE RESOLUTION MAY FURTHER STATE THE PLACE, OTHER THAN THE CITY
26 CLERK'S OFFICE, WHERE THE DISTRICT PLAN MAY BE INSPECTED IN ADVANCE OF
27 THE HEARING IF THE LEGISLATIVE BODY DETERMINES THAT, IN THE PUBLIC
28 INTEREST, ANY ADDITIONAL PLACE OF INSPECTION IS NECESSARY OR DESIRABLE.

29 S 70-G. CREATION OR EXTENSION OF THE DISTRICT. (A) NOT EARLIER THAN
30 THIRTY DAYS AFTER THE CONCLUSION OF THE LAST DAY OF THE PUBLIC HEARING
31 HELD PURSUANT TO SECTION SEVENTY-F OF THIS ARTICLE, THE LEGISLATIVE BODY
32 SHALL DETERMINE:

33 (1) WHETHER THE NOTICE OF HEARING WAS PUBLISHED AND MAILED AS REQUIRED
34 BY LAW, AND IS OTHERWISE SUFFICIENT;

35 (2) WHETHER THE CREATION OR EXTENSION OF THE CITY PUBLIC UTILITY
36 DISTRICT IS IN THE BEST INTEREST OF THE GENERAL WELFARE, AS DEFINED IN
37 SECTION TWENTY-ONE OF THIS CHAPTER.

38 (B) (1) IF THE LEGISLATIVE BODY SHALL DETERMINE QUESTION TWO OF SUBDI-
39 VISION (A) OF THIS SECTION IN THE NEGATIVE, OR IF THE REQUISITE NUMBER
40 OF OWNERS SHALL HAVE FILED THEIR OBJECTIONS AS PROVIDED IN SECTION
41 SEVENTY-F OF THIS ARTICLE, THE LEGISLATIVE BODY SHALL ADOPT A RESOLUTION
42 DISAPPROVING THE CREATION OR EXTENSION OF THE DISTRICT STATING THE
43 REASONS FOR ITS DETERMINATION AND ENTER THE SAME IN THE MINUTES OF ITS
44 PROCEEDINGS. THEREAFTER NO PLAN FOR THE CREATION OR EXTENSION OF A
45 DISTRICT TO INCLUDE ANY PART OF THE PROPERTY OR AREA PROPOSED TO BE
46 INCLUDED IN THE DISAPPROVED DISTRICT MAY BE PREPARED AS PROVIDED IN
47 SECTION SEVENTY-E OF THIS ARTICLE UNTIL THE EXPIRATION OF AT LEAST ONE
48 YEAR FROM THE DATE OF DISAPPROVAL.

49 (2) IF THE LEGISLATIVE BODY SHALL FIND THAT NOTICE WAS INCORRECTLY OR
50 INSUFFICIENTLY GIVEN OR THAT ANY PORTION OF THE REAL PROPERTY WITHIN THE
51 PROPOSED DISTRICT OR EXTENSION IS NOT BENEFITTED THEREBY OR THAT CERTAIN
52 PROPERTY BENEFITTED THEREBY HAS NOT BEEN INCLUDED THEREIN, IT SHALL
53 SPECIFY THE NECESSARY CHANGES, IF ANY, TO THE BOUNDARIES OF THE PROPOSED
54 DISTRICT OR EXTENSION, AND IT SHALL CALL A FURTHER HEARING AT A DEFINITE
55 TIME AND PLACE NOT LESS THAN FIFTEEN NOR MORE THAN TWENTY-FIVE DAYS
56 AFTER THIS DETERMINATION. NOTICE OF THE FURTHER HEARING SHALL BE

1 PUBLISHED AND MAILED IN THE MANNER PROVIDED IN SECTION SEVENTY-F OF THIS
2 ARTICLE EXCEPT THAT, WHERE BOUNDARIES ARE TO BE ALTERED, THIS NOTICE
3 SHALL ALSO SPECIFY THE MANNER IN WHICH IT IS PROPOSED TO ALTER THE BOUN-
4 DARIES OF THE PROPOSED DISTRICT OR EXTENSION. THE FURTHER HEARING SHALL
5 BE CONDUCTED IN THE SAME MANNER AS THE ORIGINAL HEARING.

6 (C) (1) IF AND WHEN THE LEGISLATIVE BODY SHALL DETERMINE IN THE AFFIR-
7 MATIVE ALL OF THE QUESTIONS SET FORTH IN SUBDIVISION (A) OF THIS
8 SECTION, AND PROVIDED THAT THE REQUISITE NUMBER OF OWNERS SHALL NOT HAVE
9 OBJECTED AS PROVIDED IN SECTION SEVENTY-F OF THIS ARTICLE, IT MAY ADOPT
10 A LOCAL LAW APPROVING THE CREATION OR EXTENSION OF THE DISTRICT AS THE
11 BOUNDARIES SHALL BE FINALLY DETERMINED.

12 (2) FORTHWITH UPON THE CREATION OR EXTENSION OF A CITY PUBLIC UTILITY
13 DISTRICT, THE CITY SHALL FORWARD THE DISTRICT PLAN TO THE AUTHORITY AND
14 MAY CONTRACT WITH THE AUTHORITY FOR THE PROVISION OF LIGHT, HEAT, POWER
15 OR ENERGY TO ALL OR PART OF THE DISTRICT. THE CITY SHALL HAVE NO POWER
16 TO CONTRACT INDEBTEDNESS ON BEHALF OF THE DISTRICT, BUT MAY FROM TIME TO
17 TIME PROVIDE SUCH SERVICES TO THE AUTHORITY AS MAY BE REASONABLE AND
18 NECESSARY FOR THE IMPLEMENTATION OF THE PURPOSES OF THIS ARTICLE, AND
19 MAY PROVIDE FOR THE EXPENSES OF THE DISTRICT COUNCIL.

20 S 70-H. PUBLICATION; FILING; JUDICIAL REVIEW. (A) THE CITY CLERK SHALL
21 CAUSE A CERTIFIED COPY OF THE LOCAL LAW ADOPTED PURSUANT TO THE
22 PROVISIONS OF THIS ARTICLE ESTABLISHING OR EXTENDING ANY DISTRICT TO BE
23 DULY RECORDED IN THE CITY CLERK'S OFFICE WITHIN TEN DAYS AFTER SUCH
24 LOCAL LAW BECOMES EFFECTIVE. WHEN SO RECORDED THIS LOCAL LAW SHALL BE
25 PRESUMPTIVE EVIDENCE OF THE REGULARITY OF THE PROCEEDINGS FOR THE
26 CREATION OR EXTENSION OF THE DISTRICT, OF THE PROCEEDINGS INSTITUTED TO
27 CONTRACT FOR THE PROVISION OF SERVICES OR IMPROVEMENTS TO IT AND OF ALL
28 OTHER ACTIONS TAKEN IN RELATION TO IT.

29 (B) WITHIN TEN DAYS AFTER THE LOCAL LAW BECOMES EFFECTIVE, THE CITY
30 CLERK SHALL, IN ADDITION TO ANY OTHER FILING REQUIRED BY LAW, CAUSE A
31 CERTIFIED COPY THEREOF TO BE FILED IN THE OFFICE OF THE STATE COMP-
32 TROLLER AT ALBANY, AND SHALL FORTHWITH CAUSE A COPY OF THE LOCAL LAW TO
33 BE PUBLISHED AT LEAST ONCE IN THE OFFICIAL PAPER OR NEWSPAPER OF GENERAL
34 CIRCULATION IN THE CITY.

35 (C) SUCH LOCAL LAW SHALL BE FINAL AND CONCLUSIVE UNLESS A PROCEEDING
36 TO REVIEW IS COMMENCED IN ACCORDANCE WITH THIS SUBDIVISION. ANY INTER-
37 ESTED PERSON AGGRIEVED BY ANY LOCAL LAW ADOPTED PURSUANT TO THE
38 PROVISIONS OF THIS ARTICLE SHALL HAVE STANDING IN THE SUPREME COURT TO
39 REVIEW THE VALIDITY OF SUCH LOCAL LAW, PROVIDED THE PROCEEDING IS
40 COMMENCED WITHIN SIXTY DAYS FROM THE DATE OF THE PUBLICATION OF THE COPY
41 OF THE LOCAL LAW PURSUANT TO SUBDIVISION (B) OF THIS SECTION. NO REVIEW
42 SHALL BE HAD UNLESS THE PETITIONER SHALL GIVE AN UNDERTAKING APPROVED BY
43 THE SUPREME COURT, OR A JUSTICE THEREOF, AS TO FORM, AMOUNT AND SUFFI-
44 CIENCY OF SURETIES THAT, IN THE EVENT OF FAILURE TO FIND THE LOCAL LAW
45 OR ANY PORTION THEREOF INVALID, HE WILL PAY TO THE CITY ALL COSTS AND
46 EXPENSES AS ARE INCURRED BY IT ON ACCOUNT OF THE PROCEEDINGS, AS SHALL
47 BE DETERMINED BY THE COURT.

48 S 70-I. CAPITAL IMPROVEMENTS. (A) AT ANY TIME AFTER THE CREATION OR
49 EXTENSION OF THE CITY PUBLIC UTILITY DISTRICT AND THE EXECUTION OF AN
50 INITIAL CONTRACT WITH THE AUTHORITY FOR THE PROVISION OF LIGHT, HEAT,
51 POWER OR ENERGY TO ALL OR PART OF SUCH DISTRICT, THE CITY MAY AMEND SUCH
52 CONTRACT WITH THE AUTHORITY, OR ENTER INTO NEW CONTRACTS WITH THE
53 AUTHORITY, ON BEHALF OF THE DISTRICT, FOR NEW OR ADDITIONAL CAPITAL
54 IMPROVEMENTS RELATED TO THE GENERAL PURPOSES OF THIS ARTICLE FOR SUCH
55 CITY PUBLIC UTILITY DISTRICT. FOR THE PURPOSES OF THIS SECTION, A CAPI-
56 TAL IMPROVEMENT SHALL MEAN ANY ASSET OF THE AUTHORITY PLACED WITHIN THE

1 BOUNDARIES OF A CITY PUBLIC UTILITY DISTRICT TO PROVIDE LIGHT, HEAT,
2 POWER OR ENERGY TO A SPECIFIED CITY PUBLIC UTILITY DISTRICT AND/OR ONE
3 OR MORE CONTIGUOUS DISTRICTS, AND NOT TO THE GENERAL BODY OF CUSTOMERS
4 OF THE AUTHORITY OR OF ANY UTILITY AS A WHOLE, THE COST OR BASIS OF
5 WHICH EXCEEDS THE SUM OF TWO HUNDRED FIFTY THOUSAND DOLLARS, THE USEFUL
6 LIFE OF WHICH EXCEEDS ONE YEAR, AND THE UTILIZATION AND USE OF WHICH IS
7 ABOVE AND BEYOND THE ORDINARY COURSE OF THE OPERATION AND MAINTENANCE OF
8 FACILITIES USED FOR THE PROVISION OF LIGHT, HEAT, POWER OR ENERGY TO THE
9 DISTRICT, INCLUDING ANY CONNECTIONS FOR SERVICE.

10 (B) FOLLOWING THE RECEIPT ON FEBRUARY FIRST OF EACH CALENDAR YEAR FROM
11 THE AUTHORITY BY THE LOCAL LEGISLATIVE BODY OF EACH CITY OF A PROPOSED
12 CONTRACT SETTING FORTH A CAPITAL IMPROVEMENT PLAN FOR EACH CITY PUBLIC
13 UTILITY DISTRICT IN WHICH THE AUTHORITY IS RENDERING SERVICE OR, AS MAY
14 BE THE CASE, A COPY OF SUCH PLAN FORWARDED BY THE AUTHORITY TO EACH
15 AFFECTED CITY PUBLIC UTILITY DISTRICT COUNCIL AND NO LATER THAN MARCH
16 FIRST OF EACH YEAR, EACH CITY PUBLIC UTILITY DISTRICT COUNCIL SHALL HOLD
17 A PUBLIC HEARING ON SUCH ELEMENTS OF THE PLAN AS SHALL AFFECT THE CITY
18 PUBLIC UTILITY DISTRICT AND, NO LATER THAN MARCH THIRTIETH OF THE CALEN-
19 DAR YEAR, THE LOCAL LEGISLATIVE BODY SHALL HOLD A FURTHER PUBLIC HEARING
20 ON THE CAPITAL IMPROVEMENT PLAN. NO LATER THAN APRIL FIFTEENTH OF THE
21 CALENDAR YEAR, THE CITY PUBLIC UTILITY DISTRICT COUNCIL AND THE LOCAL
22 LEGISLATIVE BODY SHALL SET FORTH SUCH MODIFICATIONS AND RECOMMENDATIONS
23 IN THE CAPITAL IMPROVEMENT PLAN TO THE AUTHORITY AS THEY MAY DEEM
24 REASONABLE. NO LATER THAN MAY FIFTEENTH OF EACH YEAR THE CITY SHALL
25 CONTRACT WITH THE AUTHORITY FOR A CAPITAL IMPROVEMENT PLAN FOR SUCH CITY
26 PUBLIC UTILITY DISTRICT OR DISTRICTS.

27 (C) WHERE THE CITY FAILS TO CONTRACT WITH THE AUTHORITY FOR A CAPITAL
28 IMPROVEMENT PLAN FOR SUCH CITY PUBLIC UTILITY DISTRICTS BY MAY FIFTEENTH
29 OF THE CALENDAR YEAR, THE AUTHORITY MAY MOVE IN A SUPREME COURT OF PROP-
30 ER JURISDICTION, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE
31 LAW AND RULES, FOR SUCH ORDERS AS MAY BE NECESSARY TO PROTECT THE PUBLIC
32 HEALTH, SAFETY AND WELFARE AND THE RIGHTS OF ANY HOLDERS OF THE AUTHORI-
33 TY'S NOTES AND BONDS.

34 (D) THE DISTRICT COUNCIL SHALL HAVE THE POWER TO RECOMMEND, TOGETHER
35 WITH CAPITAL IMPROVEMENTS AS DEFINED IN THIS SECTION TO THE LOCAL LEGIS-
36 LATIVE BODY AND THE AUTHORITY, THE PROVISION OF ANY OTHER SERVICES OF A
37 NATURE CONSISTENT WITH THE PURPOSES OF THIS ARTICLE, AND THE CITY AND
38 THE AUTHORITY MAY PROVIDE SUCH ASSISTANCE TO THE DISTRICT COUNCIL AS MAY
39 BE REASONABLY NECESSARY TO PREPARE AND SUBMIT SUCH RECOMMENDATIONS.

40 S 70-J. DISTRICT COUNCILS. (A) THERE SHALL BE A DISTRICT COUNCIL,
41 WHICH SHALL BE A CORPORATION CREATED UNDER THE NOT-FOR-PROFIT CORPO-
42 RATION LAW, FOR EACH CITY PUBLIC UTILITY DISTRICT ESTABLISHED PURSUANT
43 TO THE PROVISIONS OF THIS ARTICLE. SUCH COUNCIL MAY CONTAIN ONE OR MORE
44 CLASSES OF MEMBERSHIP, VOTING OR NON-VOTING, AND THE CERTIFICATE OF
45 INCORPORATION OR BY-LAWS OF SUCH COUNCIL SHALL PROVIDE FOR VOTING REPRE-
46 SENTATION AMONG OWNERS OF PROPERTY, TENANTS, RATEPAYERS AND CITIZENS OF
47 THE DISTRICT WHICH SHALL BE REASONABLY RELATED TO THE DISTRICT PLAN. THE
48 MEMBERS OF THE BOARD OF DIRECTORS OF THE DISTRICT COUNCIL SHALL BE
49 MEMBERS THEREOF AND SHALL INCLUDE, IN ADDITION, AT LEAST THREE MEMBERS
50 APPOINTED BY THE FOLLOWING: ONE BY THE CHIEF EXECUTIVE OFFICER OF THE
51 CITY, ONE BY THE CHIEF FINANCIAL OFFICER OF THE CITY AND ONE BY THE
52 LOCAL LEGISLATIVE BODY, EXCEPT THAT, IN A CITY OF ONE MILLION OR MORE,
53 THE THIRD ADDITIONAL MEMBER SHALL BE APPOINTED BY THE BOROUGH PRESIDENT
54 OF THE BOROUGH IN WHICH THE DISTRICT IS LOCATED. SUCH ADDITIONAL THREE
55 MEMBERS SHALL SERVE AS THE INCORPORATORS OF THE COUNCIL PURSUANT TO THE

1 NOT-FOR-PROFIT CORPORATION LAW. THE COUNCIL MAY BE INCORPORATED PRIOR TO
2 THE EFFECTIVE DATE OF ANY DISTRICT ESTABLISHED PURSUANT TO THIS ARTICLE.

3 (B) THE DISTRICT COUNCIL SHALL HAVE THE POWER TO HEAR COMPLAINTS
4 REGARDING THE PROVISION OF ANY SERVICES BY THE AUTHORITY TO THE
5 DISTRICT, INVESTIGATE THE ENERGY, LIGHT, HEAT AND POWER NEEDS OF THE
6 CITY PUBLIC UTILITY DISTRICT, HOLD PUBLIC HEARINGS AND MAKE RECOMMENDA-
7 TIONS TO THE LOCAL LEGISLATIVE BODY AND THE AUTHORITY CONCERNING CAPITAL
8 IMPROVEMENTS TO THE DISTRICT.

9 (C) FOR SUCH CONSIDERATION AS THE AUTHORITY AND/OR THE CITY MAY DEEM
10 APPROPRIATE, THE AUTHORITY AND/OR THE CITY MAY CONTRACT WITH THE
11 DISTRICT COUNCIL TO RENDER ANY SERVICES INCIDENT TO THE PROVISION OF
12 LIGHT, HEAT, POWER AND ENERGY TO THE CITY PUBLIC UTILITY DISTRICT. THE
13 DISTRICT COUNCIL SHALL BE DEEMED TO BE THE AGENT OF THE AUTHORITY FOR
14 THE RENDITION OF SUCH SERVICES.

15 S 3. This act shall take effect immediately.