

6645

I N S E N A T E

January 22, 2010

Introduced by Sen. MARCELLINO -- 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 creating the metropolitan transportation authority interim finance authority

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

1 Section 1. Article 10-D of the public authorities law is amended by
2 adding a new title 1-A to read as follows:

3 TITLE 1-A

4 METROPOLITAN TRANSPORTATION AUTHORITY INTERIM
5 FINANCE AUTHORITY

6 SECTION 3750. SHORT TITLE.

7 3751. DEFINITIONS.

8 3752. METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE
9 AUTHORITY.

10 3753. ADMINISTRATION OF THE AUTHORITY.

11 3754. GENERAL POWERS OF THE AUTHORITY.

12 3755. RESOURCES OF THE AUTHORITY.

13 3756. TAX EXEMPTION AND TAX CONTRACT BY THE STATE.

14 3757. ACTIONS AGAINST THE AUTHORITY.

15 3758. AUDITS.

16 3759. ASSISTANCE TO THE AUTHORITY; EMPLOYEES OF THE AUTHORITY.

17 3760. MTA FINANCIAL PLANS.

18 3761. MONITORING AND REVIEW.

19 3762. CONTROL PERIOD.

20 3763. MISCELLANEOUS PROVISIONS.

21 3764. EFFECT OF INCONSISTENT PROVISIONS.

22 3765. SEVERABILITY; CONSTRUCTION.

23 S 3750. SHORT TITLE. THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE
24 "METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORITY ACT".

25 S 3751. DEFINITIONS. FOR THE PURPOSES OF THIS TITLE, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 1. "AUDITOR" MEANS THE AUDITOR GENERAL OF THE MTA.

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

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1 2. "AUTHORITY" OR "METROPOLITAN TRANSPORTATION AUTHORITY INTERIM
2 FINANCE AUTHORITY" MEANS THE PUBLIC BENEFIT CORPORATION CREATED BY THIS
3 TITLE.

4 3. "BONDS" MEANS BONDS, NOTES AND OTHER EVIDENCES OF INDEBTEDNESS,
5 ISSUED OR INCURRED BY THE AUTHORITY.

6 4. "CHIEF FINANCIAL OFFICER" MEANS THE CHIEF FINANCIAL OFFICER OF THE
7 METROPOLITAN TRANSPORTATION AUTHORITY.

8 5. "CONTROL PERIOD" MEANS A PERIOD DETERMINED BY THE AUTHORITY IN
9 ACCORDANCE WITH SECTION THIRTY-SEVEN HUNDRED FIFTY-SEVEN OF THIS TITLE.

10 6. "METROPOLITAN TRANSPORTATION AUTHORITY" OR "MTA" MEANS THE CORPO-
11 RATION ESTABLISHED BY SECTION TWELVE HUNDRED SIXTY-THREE OF THE PUBLIC
12 AUTHORITIES LAW.

13 7. "BY-LAWS" MEANS THE BY-LAWS OF THE METROPOLITAN TRANSPORTATION
14 AUTHORITY, AS AMENDED.

15 8. "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF THE
16 METROPOLITAN TRANSPORTATION AUTHORITY.

17 9. "DIRECTOR OF THE BUDGET" MEANS THE DIRECTOR OF THE BUDGET OF THE
18 STATE.

19 10. "FINANCIAL PLAN" MEANS THE FINANCIAL PLAN OF THE METROPOLITAN
20 TRANSPORTATION AUTHORITY TO BE DEVELOPED PURSUANT TO SECTION THIRTY-SEV-
21 EN HUNDRED SIXTY OF THIS TITLE, AS FROM TIME TO TIME AMENDED.

22 11. "PUBLIC CORPORATION" MEANS AND INCLUDES THE METROPOLITAN TRANSPOR-
23 TATION AUTHORITY, THE STATE AND EVERY PUBLIC CORPORATION AS DEFINED IN
24 THE GENERAL CONSTRUCTION LAW.

25 12. "STATE" MEANS THE STATE OF NEW YORK.

26 S 3752. METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORI-
27 TY. 1. THERE IS HEREBY CREATED THE METROPOLITAN TRANSPORTATION AUTHORITY
28 INTERIM FINANCE AUTHORITY. THE AUTHORITY SHALL BE A CORPORATE GOVERN-
29 MENTAL AGENCY AND INSTRUMENTALITY OF THE STATE CONSTITUTING A PUBLIC
30 BENEFIT CORPORATION.

31 2. THE AUTHORITY SHALL CONTINUE UNTIL ITS OVERSIGHT, CONTROL OR OTHER
32 RESPONSIBILITIES, AND ITS LIABILITIES HAVE BEEN MET OR OTHERWISE
33 DISCHARGED. UPON THE TERMINATION OF THE EXISTENCE OF THE AUTHORITY, ALL
34 OF ITS RIGHTS AND PROPERTY SHALL PASS TO AND BE VESTED IN THE MTA.

35 S 3753. ADMINISTRATION OF THE AUTHORITY. 1. THE AUTHORITY SHALL BE
36 ADMINISTERED BY SEVEN DIRECTORS. OF THE SEVEN DIRECTORS, TWO SHALL BE
37 APPOINTED BY THE GOVERNOR, ONE SHALL BE APPOINTED BY THE MAJORITY LEADER
38 OF THE SENATE, ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY,
39 ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE SHALL
40 BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY AND ONE SHALL BE
41 APPOINTED BY THE STATE COMPTROLLER. EACH DIRECTOR SHALL BE APPOINTED FOR
42 A TERM OF FOUR YEARS, PROVIDED HOWEVER, THAT THE DIRECTORS FIRST
43 APPOINTED BY THE GOVERNOR SHALL SERVE FOR A TERM ENDING DECEMBER THIR-
44 TY-FIRST, TWO THOUSAND FOURTEEN, AND THE FIVE OTHER DIRECTORS FIRST
45 APPOINTED SHALL SERVE FOR THE FOLLOWING TERMS: THE DIRECTORS FIRST
46 APPOINTED BY THE MAJORITY LEADER OF THE SENATE, THE SPEAKER OF THE STATE
47 ASSEMBLY AND THE STATE COMPTROLLER SHALL SERVE FOR A TERM ENDING DECEM-
48 BER THIRTY-FIRST, TWO THOUSAND FIFTEEN AND DIRECTORS FIRST APPOINTED BY
49 THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEM-
50 BLY SHALL SERVE FOR A TERM ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND
51 SIXTEEN. EACH DIRECTOR SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR HAS
52 BEEN APPOINTED AND QUALIFIED. THEREAFTER EACH DIRECTOR SHALL SERVE A
53 TERM OF FOUR YEARS, EXCEPT THAT ANY DIRECTOR APPOINTED TO FILL A VACANCY
54 SHALL SERVE ONLY UNTIL THE EXPIRATION OF HIS OR HER PREDECESSOR'S TERM.

55 2. THE GOVERNOR SHALL DESIGNATE A CHAIRPERSON AND A VICE-CHAIRPERSON
56 FROM AMONG THE DIRECTORS. THE CHAIRPERSON SHALL PRESIDE OVER ALL MEET-

1 INGS OF THE DIRECTORS AND SHALL HAVE SUCH OTHER DUTIES AS THE DIRECTORS
2 MAY PRESCRIBE. THE VICE-CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF
3 THE DIRECTORS IN THE ABSENCE OF THE CHAIRPERSON AND SHALL HAVE SUCH
4 OTHER DUTIES AS THE DIRECTORS MAY PRESCRIBE.

5 3. THE DIRECTORS OF THE AUTHORITY SHALL SERVE WITHOUT SALARY, BUT EACH
6 DIRECTOR SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED
7 IN THE PERFORMANCE OF SUCH DIRECTOR'S OFFICIAL DUTIES AS A DIRECTOR OF
8 THE AUTHORITY.

9 4. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY GENERAL, SPECIAL
10 OR LOCAL LAW, ORDINANCE, RESOLUTION OR CHARTER, NO OFFICER, MEMBER OR
11 EMPLOYEE OF THE STATE, ANY CITY, COUNTY, TOWN OR VILLAGE, ANY GOVERN-
12 MENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE, ANY SCHOOL
13 DISTRICT OR ANY OTHER PUBLIC AGENCY OR INSTRUMENTALITY WHICH EXERCISES
14 GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS OR
15 HER OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER ACCEPTANCE OF APPOINT-
16 MENT AS A DIRECTOR, OFFICER OR EMPLOYEE OF THE AUTHORITY, NOR SHALL
17 SERVICE AS SUCH DIRECTOR, OFFICER OR EMPLOYEE OF THE AUTHORITY BE DEEMED
18 INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

19 5. FOUR DIRECTORS SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY
20 BUSINESS OR THE EXERCISE OF ANY POWER OF THE AUTHORITY. NO ACTION SHALL
21 BE TAKEN BY THE AUTHORITY EXCEPT PURSUANT TO A FAVORABLE VOTE OF AT
22 LEAST FOUR DIRECTORS PARTICIPATING IN A MEETING AT WHICH SUCH ACTION IS
23 TAKEN.

24 6. THE AUTHORITY SHALL APPOINT A TREASURER AND MAY APPOINT OFFICERS
25 AND AGENTS AS IT MAY REQUIRE AND PRESCRIBE THEIR DUTIES.

26 S 3754. GENERAL POWERS OF THE AUTHORITY. EXCEPT AS OTHERWISE LIMITED
27 BY THIS TITLE, THE AUTHORITY SHALL HAVE THE FOLLOWING POWERS IN ADDITION
28 TO THOSE SPECIALLY CONFERRED ELSEWHERE IN THIS TITLE:

29 1. TO SUE AND BE SUED;

30 2. TO HAVE A SEAL AND ALTER THE SAME AT PLEASURE;

31 3. TO MAKE AND ALTER BY-LAWS FOR ITS ORGANIZATION AND MANAGEMENT AND
32 TO MAKE AND ALTER RULES AND REGULATIONS GOVERNING THE EXERCISE OF ITS
33 POWERS AND FULFILLMENT OF ITS PURPOSES UNDER THIS TITLE;

34 4. TO MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS OR AGREE-
35 MENTS NECESSARY OR CONVENIENT TO CARRY OUT ANY POWERS AND FUNCTIONS
36 EXPRESSLY GIVEN IN THIS TITLE;

37 5. TO COMMENCE ANY ACTION TO PROTECT OR ENFORCE ANY RIGHT CONFERRED
38 UPON IT BY ANY LAW, CONTRACT OR OTHER AGREEMENT;

39 6. TO ACCEPT GIFTS, GRANTS, LOANS OR CONTRIBUTIONS OF FUNDS OR FINAN-
40 CIAL OR OTHER AID IN ANY FORM FROM THE MTA, STATE OR FEDERAL GOVERNMENT
41 OR ANY AGENCY OR INSTRUMENTALITY THEREOF, OR FROM ANY OTHER SOURCE AND
42 TO EXPEND THE PROCEEDS FOR ANY OF ITS CORPORATE PURPOSES IN ACCORDANCE
43 WITH THE PROVISIONS OF THIS TITLE;

44 7. TO APPOINT SUCH OFFICERS AND EMPLOYEES AS IT MAY REQUIRE FOR THE
45 PERFORMANCE OF ITS DUTIES AND TO FIX AND DETERMINE THEIR QUALIFICATIONS,
46 DUTIES, AND COMPENSATION, AND TO RETAIN OR EMPLOY COUNSEL, AUDITORS AND
47 PRIVATE FINANCIAL CONSULTANTS AND OTHER SERVICES ON A CONTRACT BASIS OR
48 OTHERWISE FOR RENDERING PROFESSIONAL, BUSINESS OR TECHNICAL SERVICES AND
49 ADVICE; AND, IN TAKING SUCH ACTIONS, THE AUTHORITY SHALL CONSIDER THE
50 FINANCIAL IMPACT ON THE MTA; AND

51 8. TO DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS
52 PURPOSES AND EXERCISE THE POWERS EXPRESSLY GIVEN AND GRANTED IN THIS
53 TITLE; PROVIDED, HOWEVER, SUCH AUTHORITY SHALL UNDER NO CIRCUMSTANCES
54 ACQUIRE, HOLD OR TRANSFER TITLE TO, LEASE, OWN BENEFICIALLY OR OTHER-
55 WISE, MANAGE, OPERATE OR OTHERWISE EXERCISE CONTROL OVER ANY REAL PROP-
56 ERTY, ANY IMPROVEMENT TO REAL PROPERTY OR ANY INTEREST THEREIN OTHER

1 THAN A LEASE OR SUBLEASE OF OFFICE SPACE DEEMED NECESSARY OR DESIRABLE
2 BY THE AUTHORITY.

3 S 3755. RESOURCES OF THE AUTHORITY. 1. SUBJECT TO THE PROVISIONS OF
4 THIS TITLE, THE DIRECTORS OF THE AUTHORITY SHALL RECEIVE, ACCEPT,
5 INVEST, ADMINISTER, EXPEND AND DISBURSE FOR ITS CORPORATE PURPOSES ALL
6 MONEY OF THE AUTHORITY FROM WHATEVER SOURCES DERIVED INCLUDING (A) TAX
7 REVENUES; AND (B) ANY OTHER PAYMENTS, GIFTS OR APPROPRIATIONS TO THE
8 AUTHORITY FROM ANY OTHER SOURCE.

9 2. THE MONEY OF THE AUTHORITY SHALL BE PAID TO THE AUTHORITY AND SHALL
10 NOT BE COMMINGLED WITH ANY OTHER MONEY.

11 3. THE MONEY IN ANY OF THE AUTHORITY'S ACCOUNTS SHALL BE PAID OUT ON
12 CHECKS SIGNED BY THE TREASURER OF THE AUTHORITY, OR BY OTHER LAWFUL AND
13 APPROPRIATE MEANS SUCH AS WIRE OR ELECTRONIC TRANSFER, ON REQUISITIONS
14 OF THE CHAIRPERSON OF THE AUTHORITY OR OF SUCH OTHER OFFICER AS THE
15 DIRECTORS SHALL AUTHORIZE TO MAKE SUCH REQUISITION.

16 4. ALL DEPOSITS OF AUTHORITY MONEY SHALL BE SECURED BY OBLIGATIONS OF
17 THE UNITED STATES OR OF THE STATE OR OF THE MTA AT A MARKET VALUE AT
18 LEAST EQUAL AT ALL TIMES TO THE AMOUNT OF THE DEPOSIT, AND ALL BANKS AND
19 TRUST COMPANIES ARE AUTHORIZED TO GIVE SUCH SECURITY FOR SUCH DEPOSITS.

20 S 3756. TAX EXEMPTION AND TAX CONTRACT BY THE STATE. IT IS HEREBY
21 DETERMINED THAT THE CREATION OF THE AUTHORITY AND THE CARRYING OUT OF
22 ITS CORPORATE PURPOSES ARE IN ALL RESPECTS FOR THE BENEFIT OF THE PEOPLE
23 OF THE STATE OF NEW YORK AND ARE PUBLIC PURPOSES. ACCORDINGLY, THE
24 AUTHORITY SHALL BE REGARDED AS PERFORMING AN ESSENTIAL GOVERNMENTAL
25 FUNCTION IN THE EXERCISE OF THE POWERS CONFERRED UPON IT BY THIS TITLE.
26 THE PROPERTY OF THE AUTHORITY, ITS INCOME AND ITS OPERATIONS SHALL BE
27 EXEMPT FROM TAXATION, ASSESSMENTS, SPECIAL ASSESSMENTS AND AD VALOREM
28 LEVIES. THE AUTHORITY SHALL NOT BE REQUIRED TO PAY ANY FEES, TAXES,
29 SPECIAL AD VALOREM LEVIES OR ASSESSMENTS OF ANY KIND, WHETHER STATE OR
30 LOCAL, INCLUDING, BUT NOT LIMITED TO, FEES, TAXES, SPECIAL AD VALOREM
31 LEVIES OR ASSESSMENTS ON REAL PROPERTY, FRANCHISE TAXES, SALES TAXES OR
32 OTHER TAXES, UPON OR WITH RESPECT TO ANY PROPERTY OWNED BY IT OR UNDER
33 ITS JURISDICTION, CONTROL OR SUPERVISION, OR UPON THE USES THEREOF, OR
34 UPON OR WITH RESPECT TO ITS ACTIVITIES OR OPERATIONS IN FURTHERANCE OF
35 THE POWERS CONFERRED UPON IT BY THIS TITLE, OR UPON OR WITH RESPECT TO
36 ANY FARES, TOLLS, RENTALS, RATES, CHARGES, FEES, REVENUES OR OTHER
37 INCOME RECEIVED BY THE AUTHORITY.

38 S 3757. ACTIONS AGAINST THE AUTHORITY. 1. EXCEPT IN AN ACTION FOR
39 WRONGFUL DEATH, NO ACTION OR PROCEEDING SHALL BE PROSECUTED OR MAIN-
40 TAINED AGAINST THE AUTHORITY FOR PERSONAL INJURY OR DAMAGE TO REAL OR
41 PERSONAL PROPERTY ALLEGED TO HAVE BEEN SUSTAINED BY REASON OF THE NEGLI-
42 GENCE OR WRONGFUL ACT OF THE AUTHORITY OR OF ANY DIRECTOR, OFFICER,
43 AGENT OR EMPLOYEE THEREOF, UNLESS (A) IT SHALL APPEAR BY AND AS AN ALLE-
44 GATION IN THE COMPLAINT OR MOVING PAPERS THAT A NOTICE OF CLAIM SHALL
45 HAVE BEEN MADE AND SERVED UPON THE AUTHORITY, WITHIN THE TIME LIMIT
46 PRESCRIBED BY AND IN COMPLIANCE WITH SECTION FIFTY-E OF THE GENERAL
47 MUNICIPAL LAW, (B) IT SHALL APPEAR BY AND AS AN ALLEGATION IN THE
48 COMPLAINT OR MOVING PAPERS THAT AT LEAST THIRTY DAYS HAVE ELAPSED SINCE
49 THE SERVICE OF SUCH NOTICE AND THAT ADJUSTMENT OR PAYMENT THEREOF HAS
50 BEEN NEGLECTED OR REFUSED, AND (C) THE ACTION OR PROCEEDING SHALL BE
51 COMMENCED WITHIN ONE YEAR AFTER THE HAPPENING OF THE EVENT UPON WHICH
52 THE CLAIM IS BASED. AN ACTION AGAINST THE AUTHORITY FOR WRONGFUL DEATH
53 SHALL BE COMMENCED IN ACCORDANCE WITH THE NOTICE OF CLAIM AND TIME LIM-
54 TATION PROVISIONS OF TITLE ELEVEN OF ARTICLE NINE OF THIS CHAPTER.

55 2. WHEREVER A NOTICE OF CLAIM IS SERVED UPON THE AUTHORITY, IT SHALL
56 HAVE THE RIGHT TO DEMAND AN EXAMINATION OF THE CLAIMANT RELATIVE TO THE

1 OCCURRENCE AND EXTENT OF THE INJURIES OR DAMAGES FOR WHICH CLAIM IS
2 MADE, IN ACCORDANCE WITH THE PROVISIONS OF SECTION FIFTY-H OF THE GENER-
3 AL MUNICIPAL LAW.

4 3. THE AUTHORITY MAY REQUIRE ANY PERSON PRESENTING FOR SETTLEMENT AN
5 ACCOUNT OR CLAIM FOR ANY CAUSE WHATEVER AGAINST THE AUTHORITY TO BE
6 SWORN BEFORE A DIRECTOR, COUNSEL OR AN ATTORNEY, OFFICER OR EMPLOYEE
7 THEREOF DESIGNATED FOR SUCH PURPOSE, CONCERNING SUCH ACCOUNT OR CLAIM
8 AND WHEN SO SWORN, TO ANSWER ORALLY AS TO ANY FACTS RELATIVE TO SUCH
9 ACCOUNT OR CLAIM. THE AUTHORITY SHALL HAVE POWER TO SETTLE OR ADJUST ANY
10 CLAIMS IN FAVOR OF OR AGAINST THE AUTHORITY.

11 4. THE RATE OF INTEREST TO BE PAID BY THE AUTHORITY UPON ANY JUDGMENT
12 FOR WHICH IT IS LIABLE SHALL NOT EXCEED THE MAXIMUM RATE OF INTEREST ON
13 JUDGMENTS AND ACCRUED CLAIMS AGAINST MUNICIPAL AUTHORITIES AS PROVIDED
14 IN THE GENERAL MUNICIPAL LAW. INTEREST ON PAYMENTS OF PRINCIPAL OR
15 INTEREST ON ANY BONDS IN DEFAULT SHALL ACCRUE AT THE RATE SPECIFIED IN
16 THE GENERAL MUNICIPAL LAW UNTIL PAID OR OTHERWISE SATISFIED.

17 5. NEITHER ANY DIRECTOR OF THE AUTHORITY NOR ANY OFFICER, EMPLOYEE, OR
18 AGENT OF THE AUTHORITY, WHILE ACTING WITHIN THE SCOPE OF HIS OR HER
19 AUTHORITY, SHALL BE SUBJECT TO ANY LIABILITY RESULTING FROM EXERCISING
20 OR CARRYING OUT ANY OF THE POWERS GIVEN IN THIS TITLE.

21 6. (A) THE STATE SHALL SAVE HARMLESS AND INDEMNIFY DIRECTORS, OFFICERS
22 AND EMPLOYEES OF AND REPRESENTATIVES TO THE AUTHORITY, ALL OF WHOM SHALL
23 BE DEEMED OFFICERS AND EMPLOYEES OF THE STATE FOR PURPOSES OF SECTION
24 SEVENTEEN OF THE PUBLIC OFFICERS LAW, AGAINST ANY CLAIM, DEMAND, SUIT,
25 OR JUDGMENT ARISING BY REASON OF ANY ACT OR OMISSION TO ACT BY SUCH
26 DIRECTOR, OFFICER, EMPLOYEE OR REPRESENTATIVE OCCURRING IN THE DISCHARGE
27 OF HIS OR HER DUTIES AND WITHIN THE SCOPE OF HIS OR HER SERVICE ON
28 BEHALF OF THE AUTHORITY. IN THE EVENT OF ANY SUCH CLAIM, DEMAND, SUIT OR
29 JUDGMENT, A DIRECTOR, OFFICER OR EMPLOYEE OF OR REPRESENTATIVE TO THE
30 AUTHORITY SHALL BE SAVED HARMLESS AND INDEMNIFIED, NOTWITHSTANDING THE
31 LIMITATIONS OF SUBDIVISION ONE OF SECTION SEVENTEEN OF THE PUBLIC OFFI-
32 CERS LAW, UNLESS SUCH INDIVIDUAL IS FOUND BY A FINAL JUDICIAL DETERMI-
33 NATION NOT TO HAVE ACTED, IN GOOD FAITH, FOR A PURPOSE WHICH HE OR SHE
34 REASONABLY BELIEVED TO BE IN THE BEST INTEREST OF THE AUTHORITY OR NOT
35 TO HAVE HAD REASONABLE CAUSE TO BELIEVE THAT HIS OR HER CONDUCT WAS
36 LAWFUL.

37 (B) IN CONNECTION WITH ANY SUCH CLAIM, DEMAND, SUIT, OR JUDGMENT, ANY
38 DIRECTOR, OFFICER OR EMPLOYEE OF OR REPRESENTATIVE TO THE AUTHORITY
39 SHALL BE ENTITLED TO REPRESENTATION BY PRIVATE COUNSEL OF HIS OR HER
40 CHOICE IN ANY CIVIL JUDICIAL PROCEEDING WHENEVER THE ATTORNEY GENERAL
41 DETERMINES BASED UPON HIS OR HER INVESTIGATION AND REVIEW OF THE FACTS
42 AND CIRCUMSTANCES OF THE CASE THAT REPRESENTATION BY THE ATTORNEY GENER-
43 AL WOULD BE INAPPROPRIATE. THE ATTORNEY GENERAL SHALL NOTIFY THE INDI-
44 VIDUAL IN WRITING OF SUCH DETERMINATION THAT THE INDIVIDUAL IS ENTITLED
45 TO BE REPRESENTED BY PRIVATE COUNSEL. THE ATTORNEY GENERAL MAY REQUIRE,
46 AS A CONDITION TO PAYMENT OF THE FEES AND EXPENSES OF SUCH REPRESENTATIVE,
47 THAT APPROPRIATE GROUPS OF SUCH INDIVIDUALS BE REPRESENTED BY
48 THE SAME COUNSEL. IF THE INDIVIDUAL OR GROUPS OF INDIVIDUALS IS ENTITLED
49 TO REPRESENTATION BY PRIVATE COUNSEL UNDER THE PROVISIONS OF THIS
50 SECTION, THE ATTORNEY GENERAL SHALL SO CERTIFY TO THE STATE COMPTROLLER.
51 REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES SHALL BE PAID BY THE
52 STATE TO SUCH PRIVATE COUNSEL FROM TIME TO TIME DURING THE PENDENCY OF
53 THE CIVIL ACTION OR PROCEEDING, SUBJECT TO CERTIFICATION THAT THE INDI-
54 VIDUAL IS ENTITLED TO REPRESENTATION UNDER THE TERMS AND CONDITIONS OF
55 THIS SECTION BY THE AUTHORITY, UPON THE AUDIT AND WARRANT OF THE STATE
56 COMPTROLLER. THE PROVISIONS OF THIS SUBDIVISION SHALL BE IN ADDITION TO

1 AND SHALL NOT SUPPLANT ANY INDEMNIFICATION OR OTHER BENEFITS HERETOFORE
2 OR HEREAFTER CONFERRED UPON DIRECTORS, OFFICERS, OR EMPLOYEES OF AND
3 REPRESENTATIVES TO THE AUTHORITY BY SECTION SEVENTEEN OF THE PUBLIC
4 OFFICERS LAW, BY ACTION OF THE AUTHORITY OR OTHERWISE. THE PROVISIONS OF
5 THIS SUBDIVISION SHALL INURE ONLY TO DIRECTORS, OFFICERS AND EMPLOYEES
6 OF AND REPRESENTATIVES TO THE AUTHORITY, SHALL NOT ENLARGE OR DIMINISH
7 THE RIGHTS OF ANY OTHER PARTY, AND SHALL NOT IMPAIR, LIMIT OR MODIFY THE
8 RIGHTS AND OBLIGATIONS OF ANY INSURER UNDER ANY POLICY OF INSURANCE.

9 S 3758. AUDITS. 1. THE ACCOUNTS OF THE AUTHORITY SHALL BE SUBJECT TO
10 THE AUDIT OF THE AUDITOR AND THE STATE COMPTROLLER. IN ADDITION, THE
11 AUTHORITY SHALL BE SUBJECT TO AN ANNUAL FINANCIAL AUDIT PERFORMED BY AN
12 INDEPENDENT CERTIFIED ACCOUNTANT SELECTED BY THE AUTHORITY. SUCH AUDIT
13 REPORT SHALL BE SUBMITTED TO THE CHIEF EXECUTIVE OFFICER, THE AUDITOR,
14 THE GOVERNOR, THE STATE COMPTROLLER, THE CHAIR AND RANKING MINORITY
15 MEMBER OF THE SENATE FINANCE COMMITTEE AND THE CHAIR AND RANKING MINORI-
16 TY MEMBER OF THE ASSEMBLY WAYS AND MEANS COMMITTEE.

17 2. FOR EACH FISCAL YEAR DURING THE EXISTENCE OF THE AUTHORITY, AND
18 WITHIN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE OF THE MTA'S FISCAL YEAR,
19 THE MTA SHALL SUBMIT ITS AUDITED FINANCIAL STATEMENTS TO THE AUTHORITY.

20 S 3759. ASSISTANCE TO THE AUTHORITY; EMPLOYEES OF THE AUTHORITY. 1.
21 WITH THE CONSENT OF ANY PUBLIC CORPORATION, THE AUTHORITY MAY USE
22 AGENTS, EMPLOYEES AND FACILITIES THEREOF, PAYING TO SUCH PUBLIC CORPO-
23 RATION ITS AGREED PROPORTION OF THE COMPENSATION OR COSTS.

24 2. OFFICERS AND EMPLOYEES OF STATE OR COUNTY AGENCIES MAY BE TRANS-
25 FERRED TO THE AUTHORITY WITHOUT EXAMINATION AND WITHOUT LOSS OF ANY
26 CIVIL SERVICE OR RETIREMENT STATUS OR RIGHTS. ANY OFFICER OR EMPLOYEE OF
27 THE AUTHORITY WHO HERETOFORE ACQUIRED OR SHALL HEREAFTER ACQUIRE SUCH
28 POSITION STATUS BY TRANSFER AND WHO AT THE TIME OF SUCH TRANSFER WAS A
29 MEMBER OF THE NEW YORK STATE AND LOCAL EMPLOYEES' RETIREMENT SYSTEM
30 SHALL CONTINUE TO BE A MEMBER OF SUCH SYSTEM AS LONG AS HE OR SHE
31 CONTINUES IN SUCH SERVICE, AND SHALL CONTINUE TO HAVE ALL THE RIGHTS,
32 PRIVILEGES AND OBLIGATIONS OF MEMBERSHIP IN SUCH SYSTEM.

33 S 3760. MTA FINANCIAL PLANS. THE CHIEF EXECUTIVE OFFICER SHALL PREPARE
34 AND SUBMIT TO THE AUTHORITY A FOUR-YEAR FINANCIAL PLAN, INITIALLY FOR
35 THE FISCAL YEARS ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN
36 THROUGH TWO THOUSAND FOURTEEN, TOGETHER WITH THE PROPOSED BUDGET RIGHTS,
37 PRIVILEGES AND OBLIGATIONS OF MEMBERSHIP IN SUCH SYSTEM, FOR THE FISCAL
38 YEAR ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, NOT LATER
39 THAN THE DATE REQUIRED FOR SUBMISSION OF SUCH BUDGET PURSUANT TO BY-LAWS
40 OF THE MTA. SUCH FINANCIAL PLAN SHALL CONTAIN ACTIONS SUFFICIENT TO
41 ENSURE WITH RESPECT TO THE MAJOR OPERATING FUNDS FOR EACH FISCAL YEAR OF
42 THE PLAN THAT ANNUAL AGGREGATE OPERATING EXPENSES FOR SUCH FISCAL YEAR
43 SHALL NOT EXCEED ANNUAL AGGREGATE OPERATING REVENUES FOR SUCH FISCAL
44 YEAR.

45 S 3761. MONITORING AND REVIEW. EXCEPT AS OTHERWISE PROVIDED IN SECTION
46 THIRTY-SIX HUNDRED SIXTY-TWO OF THIS TITLE, THE AUTHORITY SHALL:

47 1. CONDUCT MEETINGS AT LEAST ANNUALLY;

48 2. OBTAIN FROM THE MTA ALL INFORMATION REQUIRED PURSUANT TO THIS
49 SECTION, AND SUCH OTHER FINANCIAL STATEMENTS AND PROJECTIONS, BUDGETARY
50 DATA AND INFORMATION, AND MANAGEMENT REPORTS AND MATERIALS AS THE
51 AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE PURPOSES OF
52 THIS TITLE;

53 3. RECOMMEND TO THE MTA SUCH MEASURES RELATING TO THEIR OPERATION,
54 MANAGEMENT, EFFICIENCY AND PRODUCTIVITY AS THE AUTHORITY DEEMS APPROPRI-
55 ATE TO REDUCE COSTS AND IMPROVE SERVICES SO AS TO ADVANCE THE PURPOSES
56 OF THIS TITLE;

1 4. CONSULT WITH THE MTA IN THE PREPARATION OF THE BUDGET OF THE MTA;

2 5. WITH RESPECT TO ANY MTA BORROWING PROPOSED TO BE ISSUED AFTER JULY
3 FIRST, TWO THOUSAND TEN, REVIEW THE TERMS OF AND COMMENT, WITHIN THIRTY
4 DAYS AFTER NOTIFICATION BY THE MTA OF A PROPOSED BORROWING, ON THE
5 PRUDENCE OF EACH PROPOSED ISSUANCE OF BONDS OR NOTES TO BE ISSUED BY THE
6 MTA AND NO SUCH BORROWING SHALL BE MADE UNLESS FIRST REVIEWED AND
7 COMMENTED UPON BY THE AUTHORITY. THE AUTHORITY SHALL PROVIDE SUCH
8 COMMENTS WITHIN THIRTY DAYS AFTER NOTIFICATION BY THE MTA OF A PROPOSED
9 BORROWING TO THE CHIEF EXECUTIVE OFFICER, THE COMPTROLLER, THE LEGISLA-
10 TURE, THE DIRECTOR OF THE BUDGET AND THE STATE COMPTROLLER; AND

11 6. PERFORM SUCH AUDITS AND REVIEWS OF THE MTA AND ANY AGENCY THEREOF
12 AS IT DEEMS NECESSARY.

13 S 3762. CONTROL PERIOD. 1. THE AUTHORITY SHALL IMPOSE A CONTROL PERIOD
14 UPON ITS DETERMINATION AT ANY TIME THAT ANY OF THE FOLLOWING EVENTS HAS
15 OCCURRED OR THAT THERE IS A SUBSTANTIAL LIKELIHOOD AND IMMINENCE OF SUCH
16 OCCURRENCE: (A) THE MTA SHALL HAVE FAILED TO PAY THE PRINCIPAL OF OR
17 INTEREST ON ANY OF ITS BONDS OR NOTES WHEN DUE OR PAYABLE, (B) THE MTA
18 SHALL HAVE INCURRED A MAJOR OPERATING FUNDS DEFICIT OF ONE PERCENT OR
19 MORE IN THE AGGREGATE RESULTS OF OPERATIONS OF SUCH FUNDS DURING ITS
20 FISCAL YEAR ASSUMING ALL REVENUES AND EXPENDITURES ARE REPORTED IN
21 ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, SUBJECT TO THE
22 PROVISIONS OF THIS TITLE, (C) THE MTA SHALL HAVE OTHERWISE VIOLATED ANY
23 PROVISION OF THIS TITLE AND SUCH VIOLATION SUBSTANTIALLY IMPAIRS THE
24 MARKETABILITY OF THE MTA'S BONDS OR NOTES, (D) THE CHIEF FINANCIAL OFFI-
25 CER'S CERTIFICATION AT ANY TIME, AT THE REQUEST OF THE AUTHORITY OR ON
26 THE CHIEF FINANCIAL OFFICER'S INITIATIVE, WHICH CERTIFICATION SHALL BE
27 MADE FROM TIME TO TIME AS PROMPTLY AS CIRCUMSTANCES WARRANT AND REPORTED
28 TO THE AUTHORITY, THAT ON THE BASIS OF FACTS EXISTING AT SUCH TIME SUCH
29 OFFICER COULD NOT MAKE THE CERTIFICATION. THE AUTHORITY SHALL TERMINATE
30 ANY SUCH CONTROL PERIOD WHEN IT DETERMINES THAT NONE OF THE CONDITIONS
31 WHICH WOULD PERMIT THE AUTHORITY TO IMPOSE A CONTROL PERIOD EXIST. AFTER
32 TERMINATION OF A CONTROL PERIOD THE AUTHORITY SHALL ANNUALLY CONSIDER
33 PARAGRAPHS (A) THROUGH (D) OF THIS SUBDIVISION AND DETERMINE WHETHER, IN
34 ITS JUDGMENT, ANY OF THE EVENTS DESCRIBED IN SUCH PARAGRAPHS HAVE
35 OCCURRED AND THE AUTHORITY SHALL PUBLISH EACH SUCH DETERMINATION. ANY
36 CERTIFICATION MADE BY THE CHIEF FINANCIAL OFFICER PURSUANT TO THIS
37 SECTION SHALL BE BASED ON SUCH OFFICER'S WRITTEN DETERMINATION WHICH
38 SHALL TAKE INTO ACCOUNT A REPORT AND OPINION OF AN INDEPENDENT EXPERT IN
39 THE MARKETING OF MUNICIPAL SECURITIES SELECTED BY THE AUTHORITY, AND THE
40 OPINION OF SUCH EXPERT AND ANY OTHER INFORMATION TAKEN INTO ACCOUNT
41 SHALL BE MADE PUBLIC WHEN DELIVERED TO THE AUTHORITY. NOTWITHSTANDING
42 ANY PART OF THE FOREGOING TO THE CONTRARY, IN NO EVENT SHALL ANY CONTROL
43 PERIOD CONTINUE BEYOND JANUARY FIRST, TWO THOUSAND THIRTY.

44 2. IN CARRYING OUT THE PURPOSES OF THIS TITLE DURING ANY CONTROL PERI-
45 OD:

46 (A) THE AUTHORITY SHALL (I) CONSULT WITH THE MTA IN THE PREPARATION OF
47 THE FINANCIAL PLAN, AND CERTIFY TO THE MTA THE REVENUE ESTIMATES
48 APPROVED THEREIN, (II) PRESCRIBE THE FORM OF THE FINANCIAL PLAN AND THE
49 SUPPORTING INFORMATION REQUIRED IN CONNECTION THEREWITH, AND (III) EXER-
50 CISE THE RIGHTS OF APPROVAL, DISAPPROVAL AND MODIFICATION WITH RESPECT
51 TO THE FINANCIAL PLAN, INCLUDING BUT NOT LIMITED TO THE REVENUE ESTI-
52 MATES CONTAINED THEREIN.

53 (B) THE AUTHORITY SHALL, FROM TIME TO TIME AND TO THE EXTENT IT DEEMS
54 NECESSARY OR DESIRABLE IN ORDER TO ACCOMPLISH THE PURPOSES OF THIS
55 TITLE, (I) REVIEW THE OPERATIONS, MANAGEMENT, EFFICIENCY AND PRODUCTIV-
56 ITY OF SUCH MTA OPERATIONS OR PORTIONS THEREOF AS THE AUTHORITY MAY

1 DETERMINE, AND MAKE REPORTS THEREON; (II) AUDIT COMPLIANCE WITH THE
2 FINANCIAL PLAN IN SUCH AREAS AS THE AUTHORITY MAY DETERMINE; (III)
3 RECOMMEND TO THE MTA SUCH MEASURES RELATING TO THEIR OPERATIONS, MANAGE-
4 MENT, EFFICIENCY AND PRODUCTIVITY AS IT DEEMS APPROPRIATE TO REDUCE
5 COSTS AND IMPROVE SERVICES SO AS TO ADVANCE THE PURPOSES OF THIS TITLE;
6 AND (IV) OBTAIN INFORMATION ON THE FINANCIAL CONDITION AND NEEDS OF THE
7 MTA. NOTHING HEREIN SHALL DIMINISH THE POWERS OF THE STATE COMPTROLLER
8 OTHERWISE PROVIDED BY LAW AND THE AUTHORITY MAY REQUEST THE ASSISTANCE
9 OF THE STATE COMPTROLLER IN THE PERFORMANCE OF THE ABOVE FUNCTIONS.

10 (C) THE AUTHORITY SHALL (I) RECEIVE FROM THE MTA AND FROM THE STATE
11 COMPTROLLER, AND REVIEW, SUCH FINANCIAL STATEMENTS AND PROJECTIONS,
12 BUDGETARY DATA AND INFORMATION, AND MANAGEMENT REPORTS AND MATERIALS AS
13 THE AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE PURPOSES OF
14 THIS TITLE, AND (II) INSPECT, COPY AND AUDIT SUCH BOOKS AND RECORDS OF
15 THE MTA AS THE AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE
16 PURPOSES OF THIS TITLE.

17 (D) ALL CONTRACTS ENTERED INTO BY THE MTA DURING ANY CONTROL PERIOD
18 MUST BE CONSISTENT WITH THE PROVISIONS OF THIS TITLE AND MUST COMPLY
19 WITH THE REQUIREMENTS OF THE FINANCIAL PLAN AS APPROVED BY THE AUTHORI-
20 TY. WITH RESPECT TO ALL CONTRACTS OR OTHER OBLIGATIONS TO BE ENTERED
21 INTO BY THE MTA DURING ANY CONTROL PERIOD REQUIRING THE PAYMENT OF FUNDS
22 OR THE INCURRING OF COSTS BY THE MTA:

23 (I) WITHIN TWENTY DAYS FROM THE COMMENCEMENT OF A CONTROL PERIOD, THE
24 CHIEF EXECUTIVE OFFICER SHALL PRESENT TO THE AUTHORITY PROPOSED GUIDE-
25 LINES RESPECTING THE CATEGORIES AND TYPES OF CONTRACTS AND OTHER OBLI-
26 GATIONS REQUIRED TO BE REVIEWED BY THE AUTHORITY PURSUANT TO THIS SUBDI-
27 VISION. WITHIN THIRTY DAYS FROM THE COMMENCEMENT OF A CONTROL PERIOD,
28 THE AUTHORITY SHALL APPROVE OR MODIFY AND APPROVE SUCH PROPOSED GUIDE-
29 LINES OR PROMULGATE ITS OWN IN THE EVENT THAT SUCH PROPOSED GUIDELINES
30 ARE NOT SUBMITTED TO IT WITHIN THE TWENTY DAYS AS PROVIDED FOR HEREIN.
31 SUCH GUIDELINES MAY THEREAFTER BE MODIFIED BY THE AUTHORITY FROM TIME TO
32 TIME ON NOT LESS THAN THIRTY DAYS' NOTICE TO THE CHIEF EXECUTIVE OFFICER
33 AND THE CHIEF EXECUTIVE OFFICER MAY FROM TIME TO TIME PROPOSE MODIFICA-
34 TIONS TO THE AUTHORITY. UNLESS EXPRESSLY DISAPPROVED OR MODIFIED BY THE
35 AUTHORITY WITHIN THIRTY DAYS (OR SUCH ADDITIONAL TIME, NOT EXCEEDING
36 THIRTY DAYS, AS THE AUTHORITY SHALL HAVE NOTIFIED THE MTA THAT IT
37 REQUIRES TO COMPLETE ITS REVIEW AND ANALYSIS) FROM THE DATE OF
38 SUBMISSION BY THE CHIEF EXECUTIVE OFFICER, ANY SUCH PROPOSED GUIDELINES
39 OR MODIFICATIONS SHALL BE DEEMED APPROVED BY THE AUTHORITY;

40 (II) PRIOR TO ENTERING INTO ANY CONTRACT OR OTHER OBLIGATION SUBJECT
41 TO REVIEW OF THE AUTHORITY UNDER ITS GUIDELINES, THE MTA SHALL SUBMIT A
42 COPY OF SUCH CONTRACT OR OTHER OBLIGATION TO THE AUTHORITY ACCOMPANIED
43 BY AN ANALYSIS OF THE PROJECTED COSTS OF SUCH CONTRACT OR OTHER OBLI-
44 GATION AND CERTIFICATION THAT PERFORMANCE THEREOF WILL BE IN ACCORDANCE
45 WITH THE FINANCIAL PLAN, ALL IN SUCH FORM AND WITH SUCH ADDITIONAL
46 INFORMATION AS THE AUTHORITY MAY PRESCRIBE. THE AUTHORITY SHALL PROMPTLY
47 REVIEW THE TERMS OF SUCH CONTRACT OR OTHER OBLIGATION AND THE SUPPORTING
48 INFORMATION IN ORDER TO DETERMINE COMPLIANCE WITH THE FINANCIAL PLAN;

49 (III) THE AUTHORITY SHALL, BY ORDER, DISAPPROVE ANY CONTRACT OR OTHER
50 OBLIGATION REVIEWED BY IT ONLY AFTER ADOPTION OF A RESOLUTION DETERMIN-
51 ING THAT, IN ITS JUDGMENT, THE PERFORMANCE OF SUCH CONTRACT OR OTHER
52 OBLIGATION WOULD BE INCONSISTENT WITH THE FINANCIAL PLAN, AND UPON SUCH
53 ORDER THE MTA SHALL NOT ENTER INTO SUCH CONTRACT OR OTHER OBLIGATION;
54 AND

55 (IV) IF THE AUTHORITY APPROVES THE TERMS OF A REVIEWED CONTRACT OR
56 OTHER OBLIGATION, THE MTA MAY ENTER INTO SUCH CONTRACT OR OTHER OBLI-

1 GATION UPON THE TERMS SUBMITTED TO THE AUTHORITY. FAILURE OF THE AUTHOR-
2 ITY TO NOTIFY THE MTA WITHIN THIRTY DAYS (OR SUCH ADDITIONAL TIME, NOT
3 EXCEEDING THIRTY DAYS, AS THE AUTHORITY SHALL HAVE NOTIFIED THE MTA THAT
4 IT REQUIRES TO COMPLETE ITS REVIEW AND ANALYSIS) AFTER SUBMISSION TO IT
5 OF A CONTRACT OR OTHER OBLIGATION THAT SUCH CONTRACT OR OTHER OBLIGATION
6 HAS BEEN DISAPPROVED SHALL BE DEEMED TO CONSTITUTE AUTHORITY APPROVAL
7 THEREOF.

8 (E) THE AUTHORITY SHALL REVIEW THE TERMS OF EACH PROPOSED LONG-TERM
9 AND SHORT-TERM BORROWING BY THE MTA TO BE EFFECTED DURING ANY CONTROL
10 PERIOD, AND NO SUCH BORROWING SHALL BE MADE DURING ANY CONTROL PERIOD
11 UNLESS IT IS APPROVED BY THE AUTHORITY. THE MTA SHALL NOT BE PROHIBITED
12 FROM ISSUING BONDS OR NOTES TO PAY OUTSTANDING BONDS OR NOTES.

13 (F) THE AUTHORITY SHALL ISSUE, TO THE APPROPRIATE OFFICIAL OF THE MTA,
14 SUCH ORDERS AS IT DEEMS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS
15 TITLE, INCLUDING, BUT NOT LIMITED TO, TIMELY AND SATISFACTORY IMPLEMEN-
16 TATION OF AN APPROVED FINANCIAL PLAN. ANY ORDER SO ISSUED SHALL BE BIND-
17 ING UPON THE OFFICIAL TO WHOM IT WAS ISSUED AND FAILURE TO COMPLY WITH
18 SUCH ORDER SHALL SUBJECT THE OFFICIAL TO THE PENALTIES DESCRIBED IN
19 SUBDIVISION FOUR OF THIS SECTION.

20 3. AUTHORIZATION FOR WAGE FREEZE. (A) DURING A CONTROL PERIOD, UPON A
21 FINDING BY THE AUTHORITY THAT A WAGE FREEZE IS ESSENTIAL TO THE ADOPTION
22 OR MAINTENANCE OF A MTA BUDGET OR A FINANCIAL PLAN THAT IS IN COMPLIANCE
23 WITH THIS TITLE, THE AUTHORITY, AFTER ENACTMENT OF A RESOLUTION SO FIND-
24 ING, MAY DECLARE A FISCAL CRISIS. UPON MAKING SUCH A DECLARATION, THE
25 AUTHORITY SHALL BE EMPOWERED TO ORDER THAT ALL INCREASES IN SALARY OR
26 WAGES OF EMPLOYEES OF THE MTA WHICH WILL TAKE EFFECT AFTER THE DATE OF
27 THE ORDER PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS, OTHER ANALOGOUS
28 CONTRACTS OR INTEREST ARBITRATION AWARDS, NOW IN EXISTENCE OR HEREAFTER
29 ENTERED INTO, REQUIRING SUCH SALARY INCREASES AS OF ANY DATE THEREAFTER
30 ARE SUSPENDED. SUCH ORDER MAY ALSO PROVIDE THAT ALL INCREASED PAYMENTS
31 FOR HOLIDAY AND VACATION DIFFERENTIALS, SHIFT DIFFERENTIALS, SALARY
32 ADJUSTMENTS ACCORDING TO PLAN AND STEP-UPS OR INCREMENTS FOR EMPLOYEES
33 OF THE MTA WHICH WILL TAKE EFFECT AFTER THE DATE OF THE ORDER PURSUANT
34 TO COLLECTIVE BARGAINING AGREEMENTS, OTHER ANALOGOUS CONTRACTS OR INTER-
35 EST ARBITRATION AWARDS REQUIRING SUCH INCREASED PAYMENTS AS OF ANY DATE
36 THEREAFTER ARE, IN THE SAME MANNER, SUSPENDED. FOR THE PURPOSES OF
37 COMPUTING THE PENSION BASE OF RETIREMENT ALLOWANCES, ANY SUSPENDED SALA-
38 RY OR WAGE INCREASES AND ANY SUSPENDED OTHER PAYMENTS SHALL NOT BE
39 CONSIDERED AS PART OF COMPENSATION OR FINAL COMPENSATION OR OF ANNUAL
40 SALARY EARNED OR EARNABLE. THE SUSPENSIONS AUTHORIZED HEREUNDER SHALL
41 CONTINUE UNTIL ONE YEAR AFTER THE DATE OF THE ORDER AND, TO THE EXTENT
42 OF ANY DETERMINATION OF THE AUTHORITY THAT A CONTINUATION OF SUCH
43 SUSPENSIONS, TO A DATE SPECIFIED BY THE AUTHORITY, IS NECESSARY IN ORDER
44 TO ACHIEVE THE OBJECTIVES OF THE FINANCIAL PLAN, SUCH SUSPENSIONS SHALL
45 BE CONTINUED TO THE DATE SPECIFIED BY THE AUTHORITY, WHICH DATE SHALL IN
46 NO EVENT BE LATER THAN THE END OF THE INTERIM FINANCE PERIOD, PROVIDED
47 THAT SUCH SUSPENSIONS SHALL TERMINATE WITH RESPECT TO EMPLOYEES WHO HAVE
48 AGREED TO A DEFERRAL OF SALARY OR WAGE INCREASE UPON THE CERTIFICATION
49 OF THE AGREEMENT BY THE AUTHORITY PURSUANT TO PARAGRAPH (B) OF THIS
50 SUBDIVISION.

51 (B) THIS SUBDIVISION SHALL NOT BE APPLICABLE TO EMPLOYEES OF THE MTA
52 COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYEE OF THE MTA
53 NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT WHERE THE COLLECTIVE
54 BARGAINING REPRESENTATIVE OR SUCH UNREPRESENTED EMPLOYEE HAS AGREED TO A
55 DEFERMENT OF SALARY OR WAGE INCREASE, BY AN INSTRUMENT IN WRITING WHICH
56 HAS BEEN CERTIFIED BY THE AUTHORITY AS BEING AN ACCEPTABLE AND APPROPRI-

1 ATE CONTRIBUTION TOWARD ALLEVIATING THE FISCAL CRISIS OF THE MTA. ANY
2 SUCH AGREEMENT TO A DEFERMENT OF SALARY OR WAGE INCREASE MAY PROVIDE
3 THAT FOR THE PURPOSES OF COMPUTING THE PENSION BASE OF RETIREMENT ALLOW-
4 ANCES, ANY DEFERRED SALARY OR WAGE INCREASE MAY BE CONSIDERED AS PART OF
5 COMPENSATION OR FINAL COMPENSATION OR OF ANNUAL SALARY EARNED OR EARNA-
6 BLE.

7 (C) THE AUTHORITY MAY, IF IT FINDS THAT THE FISCAL CRISIS HAS BEEN
8 SUFFICIENTLY ALLEVIATED OR FOR ANY OTHER APPROPRIATE REASON, DIRECT THAT
9 THE SUSPENSIONS OF SALARY OR WAGE INCREASES OR SUSPENSIONS OF OTHER
10 INCREASED PAYMENTS OR BENEFITS SHALL, IN WHOLE OR IN PART, BE TERMI-
11 NATED.

12 4. PROHIBITION; PENALTIES. (A) DURING ANY CONTROL PERIOD (I) NO OFFI-
13 CER OR EMPLOYEE OF THE MTA SHALL MAKE OR AUTHORIZE AN OBLIGATION OR
14 OTHER LIABILITY IN EXCESS OF THE AMOUNT AVAILABLE THEREFOR UNDER THE
15 FINANCIAL PLAN AS THEN IN EFFECT; (II) NO OFFICER OR EMPLOYEE OF THE MTA
16 SHALL INVOLVE THE MTA IN ANY CONTRACT OR OTHER OBLIGATION OR LIABILITY
17 FOR THE PAYMENT OF MONEY FOR ANY PURPOSE REQUIRED TO BE APPROVED BY THE
18 AUTHORITY UNLESS SUCH CONTRACT HAS BEEN SO APPROVED AND UNLESS SUCH
19 CONTRACT OR OBLIGATION OR LIABILITY IS IN COMPLIANCE WITH THE FINANCIAL
20 PLAN AS THEN IN EFFECT.

21 (B) NO OFFICER OR EMPLOYEE OF THE MTA SHALL TAKE ANY ACTION IN
22 VIOLATION OF ANY VALID ORDER OF THE AUTHORITY OR SHALL FAIL OR REFUSE TO
23 TAKE ANY ACTION REQUIRED BY ANY SUCH ORDER OR SHALL PREPARE, PRESENT OR
24 CERTIFY ANY INFORMATION (INCLUDING ANY PROJECTIONS OR ESTIMATES) OR
25 REPORT TO THE AUTHORITY OR ANY OF ITS AGENTS THAT IS FALSE OR MISLEAD-
26 ING, OR, UPON LEARNING THAT ANY SUCH INFORMATION IS FALSE OR MISLEADING,
27 SHALL FAIL PROMPTLY TO ADVISE THE AUTHORITY OR ITS AGENTS THEREOF.

28 (C) IN ADDITION TO ANY PENALTY OR LIABILITY UNDER ANY OTHER LAW, ANY
29 OFFICER OR EMPLOYEES OF THE MTA WHO SHALL VIOLATE PARAGRAPH (A) OR (B)
30 OF THIS SUBDIVISION SHALL BE SUBJECT TO APPROPRIATE ADMINISTRATIVE
31 DISCIPLINE, INCLUDING, WHEN CIRCUMSTANCES WARRANT, SUSPENSION FROM DUTY
32 WITHOUT PAY OR REMOVAL FROM OFFICE BY ORDER OF EITHER THE GOVERNOR OR
33 THE CHIEF EXECUTIVE OFFICER; AND ANY OFFICER OR EMPLOYEES OF THE MTA WHO
34 SHALL KNOWINGLY AND WILLFULLY VIOLATE PARAGRAPH (A) OR (B) OF THIS
35 SUBDIVISION SHALL, UPON CONVICTION, BE GUILTY OF A MISDEMEANOR.

36 (D) IN THE CASE OF A VIOLATION OF PARAGRAPH (A) OR (B) OF THIS SUBDI-
37 VISION BY AN OFFICER OR EMPLOYEE OF THE MTA, THE CHIEF EXECUTIVE OFFICER
38 SHALL IMMEDIATELY REPORT TO THE AUTHORITY ALL PERTINENT FACTS TOGETHER
39 WITH A STATEMENT OF THE ACTION TAKEN THEREON.

40 S 3763. MISCELLANEOUS PROVISIONS. 1. NOTHING CONTAINED IN THIS TITLE
41 SHALL LIMIT THE RIGHT OF THE MTA TO COMPLY WITH THE PROVISIONS OF ANY
42 EXISTING CONTRACT WITHIN OR FOR THE BENEFIT OF THE HOLDERS OF ANY BONDS
43 OR NOTES OF THE MTA.

44 2. NOTHING CONTAINED IN THIS TITLE SHALL BE CONSTRUED TO LIMIT THE
45 POWER OF THE MTA DURING ANY INTERIM FINANCE PERIOD TO DETERMINE, FROM
46 TIME TO TIME, WITHIN AVAILABLE FUNDS FOR THE MTA, THE PURPOSES FOR WHICH
47 EXPENDITURES ARE TO BE MADE BY THE MTA AND THE AMOUNTS OF SUCH EXPENDI-
48 TURES, CONSISTENT WITH THE AGGREGATE EXPENDITURES THEN PERMITTED UNDER
49 THE FINANCIAL PLAN FOR THE MTA.

50 3. THE AUTHORITY SHALL ADOPT GUIDELINES FOR PROCUREMENT CONTRACTS IN
51 ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVENTY-NINE OF THIS CHAP-
52 TER.

53 S 3764. EFFECT OF INCONSISTENT PROVISIONS. INsofar AS THE PROVISIONS
54 OF THIS TITLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT,
55 GENERAL OR SPECIAL, OR OF ANY CHARTER, LOCAL LAW, ORDINANCE OR RESOL-
56 UTION OF ANY MUNICIPALITY, THE PROVISIONS OF THIS TITLE SHALL BE

1 CONTROLLING. NOTHING CONTAINED IN THIS SECTION SHALL BE HELD TO SUPPLE-
2 MENT OR OTHERWISE EXPAND THE POWERS OR DUTIES OF THE AUTHORITY OTHERWISE
3 SET FORTH IN THIS TITLE.

4 S 3765. SEVERABILITY; CONSTRUCTION. IF ANY CLAUSE, SENTENCE, PARA-
5 GRAPH, SECTION, OR PART OF THIS TITLE SHALL BE ADJUDGED BY ANY COURT OF
6 COMPETENT JURISDICTION TO BE INVALID, SUCH JUDGMENT SHALL NOT AFFECT,
7 IMPAIR OR INVALIDATE THE REMAINDER THEREOF, BUT SHALL BE CONFINED IN ITS
8 OPERATION TO THE CLAUSE, SENTENCE, PARAGRAPH, SECTION, OR PART THEREOF
9 INVOLVED IN THE CONTROVERSY IN WHICH SUCH JUDGMENT SHALL HAVE BEEN
10 RENDERED. THE PROVISIONS OF THIS TITLE SHALL BE LIBERALLY CONSTRUED TO
11 ASSIST THE EFFECTUATION OF THE PUBLIC PURPOSES FURTHERED HEREBY.

12 S 2. If any section, part or provision of this act shall be adjudged
13 unconstitutional or invalid or ineffective by any court of this state,
14 any party in interest shall have a direct appeal as of right to the
15 court of appeals of the state of New York, and such appeal shall have
16 preference over all other causes. Service upon the adverse party of a
17 notice of appeal shall stay the effect of the judgment or order appealed
18 from pending the hearing and determination of the appeal.

19 S 3. This act shall take effect immediately.