S T A T E O F N E W Y O R K

2289

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

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

AN ACT to amend the public authorities law, in relation to the non-voting members on the boards of the Triborough bridge and tunnel authority, the New York city transit authority and the metropolitan transportation authority

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

Section 1. Subdivisions 1 and 2 of section 552 of the public authorities law, subdivision 1 as amended by chapter 766 of the laws of 2005 and subdivision 2 as amended by section 1 of part O of chapter 61 of the laws of 2000, are amended to read as follows:

1. A board, to be known as "Triborough bridge and tunnel authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seventeen VOTING members AND THREE NON-VOTING MEMBERS, all serving ex officio. Those members shall be the persons who from time to time shall hold the offices of chairman and members of metropolitan transportation authority. The chairman of such board shall be the chairman of metropolitan transportation authority, serving ex officio, and the executive director of the authority shall be the executive director of the metropolitan transportation authority, serving ex officio. The executive director shall be empowered to delegate his or her function and power to appoint, discipline and remove officers and employees to the executive officer of the Triborough bridge and tunnel authority or to such person as may succeed to the powers and duties of said executive officer. The chairman and other members of the board hereby created, and the executive director, shall not be entitled to compensation for their services hereunder but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their official duties.

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

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2. A majority of the whole number of VOTING members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title for the transaction of any business or the exercise of any power of the authority, the authority shall have the power to act by a majority vote of the VOTING members present at any meeting at which a quorum is in attendance and except further, that in the event of a tie vote the chairman shall cast one additional vote. For the purposes of the voting and quorum requirements of this subdivision, the voting and quorum requirements set forth in subdivision three of section twelve hundred sixty-three of this chapter and in any by-law of the metropolitan transportation authority adopted pursuant to the provisions of such subdivision shall be applicable hereto. Such board and its corporate existence shall continue only for a period of five years and thereafter until all its liabilities have been met and its bonds, notes and other obligations have been paid in full or such liabilities or bonds, notes or other obligations have otherwise been discharged, including bonds, notes or other obligations issued by the metropolitan transportation authority that are payable in whole or in part by revenues of the authority. When all liabilities incurred by the authority of every kind and character have been met and all its bonds, notes and other obligations have been paid in full, including bonds, notes or other obligations issued by the metropolitan transportation authority that are payable in whole or in part by revenues of the authority, or such liabilities or bonds, notes or other obligations have otherwise been discharged, all rights and properties of the authority shall pass to and be vested in the city, except those rights and properties held by it relating to the convention center which shall pass to and be vested in the state. The authority shall retain full jurisdiction and control over all its projects, with the right and duty, subject to the limitations of subdivision nine of section five hundred fifty-two-a of this title, to charge tolls and collect revenues therefrom, for the benefit of the holders of any of its bonds, notes or other obligations or other liabilities, even if not issued or incurred in connection with the project. Upon the authority's ceasing to exist all its remaining rights and properties shall pass to the city, except those rights and properties held by it relating to the convention center which shall pass to the state.

S 2. Subdivision 1 of section 1201 of the public authorities law, as amended by chapter 929 of the laws of 1986, is amended to read as follows:

1. A board, to be known as "New York City Transit Authority" is hereby created. Such board shall be a body corporate and politic constituting a public benefit corporation. It shall consist of seventeen VOTING members AND THREE NON-VOTING MEMBERS, all serving ex officio. Those members shall be the persons who from time to time shall hold the offices of chairman and members of metropolitan transportation authority.

S 3. Subdivision 5 of section 1201 of the public authorities law, as amended by chapter 929 of the laws of 1986, is amended to read as follows:

5. A majority of the whole number of VOTING members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have the power to act by a majority vote of the VOTING members present at any

meeting at which a quorum is in attendance. In the event of a tie vote the chairman shall cast one additional vote. For the purposes of the voting and quorum requirements of this subdivision, the voting and quorum requirements set forth in subdivision three of section twelve hundred sixty-three of this article and in any by-law of the metropolitan transportation authority adopted pursuant to the provisions of such subdivision shall be applicable hereto.

S 4. Subdivision 5 of section 1205 of the public authorities law, as added by chapter 930 of the laws of 1977, is amended to read as follows:

5. Any complete or partial closing of a passenger station within the city of New York, or any means of public access to such facility, except for purposes of repair or renovation or in case of emergency shall be accomplished only if approved by resolution of the authority adopted by not less than a majority of the whole number of VOTING members of the authority then in office, and only after a public hearing. Such hearing shall be held not less than thirty days after notice of such proposed closing has been given to, and comments solicited from, the community board as established pursuant to section [eighty-four] TWENTY-EIGHT HUNDRED of the New York city charter whose area of jurisdiction includes the station proposed to be closed or otherwise affected.

S 5. Subdivision 2 of section 1209 of the public authorities law, as amended by chapter 494 of the laws of 1990, is amended to read as follows:

2. Any purchase contract, including but not limited to contracts for the purchase of equipment, materials or supplies, the estimated cost of which exceeds the sum of ten thousand dollars, shall be made by the authority only upon public letting founded on sealed bids, except in a case where the authority, by resolution, declares the existence of an emergency or the existence of other circumstances making competitive bidding impracticable or inappropriate, except in no instance other than in circumstances such as described in paragraph (g) [hereof] OF THIS SUBDIVISION, shall the authority declare that competitive bidding is inappropriate with respect to purchase contracts for omnibuses. In each instance when the authority declares competitive bidding inappropriate it shall state the reasons therefor. Competitive bidding may be declared inappropriate by the authority in instances (a) where the item to be purchased is available only from a single source; or (b) where professional engineering or architectural services are solicited; or (c) where only a single bid is received in response to an invitation for competitive bids; or (d) where the authority has chosen to standardize a component on the basis of compatibility or maintenance reliability; or (e) where the apparent low bidder is declared by the authority to be not qualified to perform the terms of the contract; or (f) where the authority wishes to experiment with or test a new product or technology or evaluate the service or reliability of a new source for a particular product or component; or (g) where the authority by a vote of two-thirds of its VOTING members then in office determines that its prior experience with a potential source or contractor has been such as to require, in the public interest, that such source or contractor not be considered eligible to bid and that after the elimination of said source or contractor from the bidding process there would effectively remain only a single source for the item to be purchased and the authority purchases the item from such source; or (h) where the authority by a two-thirds vote of its VOTING members determines, on the basis of its analysis of the competitive situation among potential sources for the item to be purchased, is such that it is in the public interest to encourage new

sources of manufacture or supply by awarding a contract by negotiation and without competitive bidding. Notice of the invitation for such bidding shall state the time and place of the receipt and opening of bids and shall be published in the city record in five successive issues at least ten days preceding such opening. The authority may reject all such bids and readvertise for new bids if it shall deem it for the public interest so to do. If not, it shall award the contract to the lowest responsible bidder unless the authority, by unanimous vote, shall determine that it is for the public interest that a bid other than that of the lowest responsible bidder shall be accepted.

S 6. Subdivision 4 of section 1209 of the public authorities law, as added by chapter 430 of the laws of 1983 and paragraph (a) as amended by chapter 725 of the laws of 1993, is amended to read as follows:

4. Notwithstanding the provisions of subdivision two of this section, a contract for the purchase of omnibuses or components of omnibuses in furtherance or implementation of a capital program plan approved pursuant to section twelve hundred sixty-nine-b of this article may also be awarded by the authority by negotiation without competitive bidding provided the following standards and procedures are complied with:

(a) The authority, by a vote of not less than two-thirds of its VOTING members then in office, shall issue a notice of intention to solicit competitive offerings to furnish omnibuses or components thereof, and to negotiate the conditions of a final purchase award. Such notice shall be published in at least one newspaper of general circulation, and a copy thereof shall be mailed to all known vendors of such omnibuses or components. Such notice shall describe or identify the omnibuses or particular components so to be purchased, the factors subject to negotiation, insofar as practicable prior to such negotiation, the form and content of the response, and any other matter which the authority deems relevant. The factors subject to negotiation shall include, but need not be limited to, financing, cost, delivery schedules, and performance of all or a portion of the contract at sites within the state of New York or using goods produced and services provided with the state of New York. Such notice shall require a respondent to submit as part of the response and in such detail as the authority may require, information relating to the experience of the respondent on the basis of which said respondent purports to be qualified to fulfill a contract relating to the subject matter and including the factors identified in the notice.

(b) The authority shall evaluate the responses to such notice, and shall negotiate with those respondents whose responses comply with all the requirements set forth in the notice, including the qualification requirements.

(c) A public hearing shall be held by the authority upon not less than fifteen days notice. Such notice shall state the purpose of the hearing, and shall be published in at least one newspaper of general circulation and shall be mailed to all vendors from whom offers to negotiate were received. At such hearing, summaries of all final offers received and of all negotiations shall be presented. Public comment shall be heard with respect to such offers and negotiations after which the authority by a vote of not less than eleven of its VOTING members, shall resolve, on the basis of particularized findings relevant to the factors negotiated, that the award of the contract on the basis of negotiation for the purchase of omnibuses or any components thereof will result in savings or other benefits to the authority, and that such award is in the public interest.

In no event, however, shall the authority award a contract for omnibuses to a manufacturer whose final offer, as expressed in unit cost per omnibus, is more than ten [per cent] PERCENT higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York. Provided, however, the authority's directors to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle cost, reliability, or any other factor the authority deems relevant to its operation.

As soon as practicable after the adoption of such resolution, the authority shall file such resolution and the contract which is the subject thereof with the New York state public authorities control board, created by section fifty of this chapter, and with the individual members thereof. The authority shall provide the public authorities control board with any information concerning the decision to award the contract as such board may request, including, but not limited to financing, delivery schedule, life cycle cost, and reliability of the omnibus offers made by all manufacturers competing for the award. No such contract shall be awarded by the authority if within fifteen days following such filing the public authorities control board has disapproved the award of such contract; provided, however, if the contract is not approved by the board within the fifteen day period and no individual member of the board has certified to the authority in writing of his disapproval within such period, the contract shall be deemed to have been approved.

(d) The notice provided in paragraph (c) of this subdivision shall not be issued until forty-five days after issuance of the notice of intention to negotiate referred to in paragraph (a) of this subdivision.

S 7. Paragraph (a) of subdivision 5 of section 1209 of the public authorities law, as added by chapter 383 of the laws of 1985, is amended to read as follows:

(a) Notwithstanding that funds of the authority may be used therefor, a contract for all or a portion of work involving the alteration, expansion or rehabilitation of a passenger station may be awarded by the authority, by negotiation without competitive bidding, to a private entity or the designee of a private entity where the authority by vote of not less than eleven of its VOTING members approves written findings that such award is expected to permit the alteration, expansion or rehabilitation to be carried out in the most efficient and cost effective manner, that such private entity has agreed to pay at least one million dollars toward the cost of the work, that such payment represents not less than fifty percent of the total cost of the work, and that the authority has complied with the procedures provided in paragraph (b) of this subdivision. Notwithstanding the foregoing, a contract for all or a portion of work involving the alteration, expansion or rehabilitation of the passenger station located at the western terminus of the forty-second street shuttle may be awarded by the authority, by negotiation without competitive bidding, to a private entity or the designee of a private entity where the authority by vote of not less than eleven of its VOTING members approves written findings that such award is expected to permit the alteration, expansion or rehabilitation to be carried out in the most efficient and cost effective manner, and that the authority

has complied with the procedures provided in paragraph (b) of this subdivision.

S 8. Subdivision 9 of section 1209 of the public authorities law, as added by chapter 929 of the laws of 1986 and subparagraph (i) of paragraph (g) as amended by chapter 725 of the laws of 1993, is amended to read as follows:

9. Notwithstanding the foregoing, the authority may, by resolution approved by a two-thirds vote of its VOTING members then in office or by a majority vote of its VOTING members with respect to contracts proposed to be let pursuant to paragraph (a) of this subdivision, declare that competitive bidding is impractical or inappropriate because of the existence of any of the circumstances hereinafter set forth and thereafter the authority may proceed to award contracts without complying with the requirements of subdivision seven or eight of this section. In each case where the authority declares competitive bidding impractical or inappropriate, it shall state the reason therefor in writing and summarize any negotiations that have been conducted. Except for contracts awarded pursuant to paragraphs (a), (b), (c) and (e) of this subdivision, the authority shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the authority declares that competitive bidding is impractical or inappropriate. Competitive bidding may only be declared impractical or inappropriate where:

(a) the existence of an emergency involving danger to life, safety or property requires immediate action and cannot await competitive bidding or the item to be purchased is essential to efficient operation or the adequate provision of service and as a consequence of an unforeseen circumstance such purchase cannot await competitive bidding;

(b) the item to be purchased is available only from a single responsible source, provided that if bids have not been solicited for such item pursuant to subdivision seven of this section within the preceding twelve months, public notice shall first be given pursuant to subdivision eight of this section;

(c) the authority receives no responsive bids or only a single responsive bid in response to an invitation for competitive bids;

(d) the authority wishes to experiment with or test a product or technology or new source for such product or technology or evaluate the service or reliability of such product or technology;

(e) the item is available through an existing contract between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contract or (ii) the state of New York or the city of New York, provided that in any case when the authority under this paragraph determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

(f) the authority determines that it is in the public interest to award contracts pursuant to a process for competitive request for proposals as hereinafter set forth. For purposes of this section, a process for competitive request for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision eight of this section and shall

include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals.

(i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its VOTING members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

(g) the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rapid transit cars and omnibuses. Any such request may include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations.

(i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than two-thirds of its VOTING members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

S 9. Subparagraph 2 of paragraph (a) of subdivision 1 of section 1263 of the public authorities law, as amended by chapter 549 of the laws of 1994, is amended to read as follows:

(2) There shall be [two] THREE non-voting members and four alternate non-voting members of the authority, as referred to in subparagraph one of this paragraph.

The first non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the New York city transit authority advisory council. The first alter-

nate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Metro-North commuter council. The second alternate non-voting member shall be a regular mass transit user of the facilities of the authority and be recommended to the governor by the Long Island Rail Road commuter's council.

The second non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the Long Island Rail Road. The third alternate non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the New York city transit authority. The fourth alternate non-voting member shall be recommended to the governor by the labor organization representing the majority of employees of the Metro-North Commuter Railroad Company. THE THIRD NON-VOTING MEMBER SHALL BE RECOMMENDED TO THE GOVERNOR BY THE LABOR ORGANIZATION REPRESENTING THE MAJORITY OF EMPLOYEES OF THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY. IN THE EVENT NO SINGLE LABOR ORGANIZATION REPRESENTS THE MAJORITY OF EMPLOYEES OF EITHER THE LONG ISLAND RAIL ROAD, THE NEW YORK CITY TRANSIT AUTHORITY, THE METRO-NORTH COMMUTER RAILROAD COMPANY OR THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY, THE REPRESENTATIVES FROM THE LABOR ORGANIZATIONS WHICH TOGETHER REPRESENT A MAJORITY OF THE EMPLOYEES OF EACH OF THOSE ENTITIES SHALL AGREE UPON AND RECOMMEND TO THE GOVERNOR A NON-VOTING MEMBER OR ALTERNATE NON-VOTING MEMBER, AS THE CASE MAY BE. The chairman of the authority, at his direction, may exclude such non-voting member or alternate non-voting member from attending any portion of a meeting of the authority or of any committee established pursuant to paragraph (b) of subdivision four of this section held for the purpose of discussing negotiations with labor organizations.

The non-voting member and the two alternate non-voting members representing the New York [York] city transit authority advisory council, the Metro-North commuter council, and the Long Island Rail Road commuter's council shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. The other non-voting member and alternate non-voting members representing the New York city transit authority, Metro-North Commuter Railroad Company, and the Long Island Rail Road labor organizations shall serve eighteen month rotating terms, after which time an alternate non-voting member shall become the non-voting member and the rotation shall continue until each alternate member has served at least one eighteen month term as a non-voting member. THE NON-VOTING MEMBER REPRESENTING THE TRIBOROUGH BRIDGE AND TUNNEL AUTHORITY SHALL SERVE AN EIGHTEEN MONTH TERM. The transit authority and the commuter railroads shall not be represented concurrently by the two non-voting members during any such eighteen month period.

S 10. Paragraph (a) of subdivision 1 of section 1263 of the public authorities law is amended by adding a new subparagraph 3 to read as follows:

(3) THE NON-VOTING MEMBERS AND THE ALTERNATE NON-VOTING MEMBERS APPOINTED PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS SEVENTY-THREE-A AND SEVENTY-FOUR OF THE PUBLIC OFFICERS LAW.

S 11. Paragraphs (a) and (b) of subdivision 3 of section 1263 of the public authorities law, paragraph (a) as amended by chapter 929 of the laws of 1986 and paragraph (b) as amended by chapter 14 of the laws of 2006, are amended to read as follows:

(a) A majority of the whole number of VOTING members of the authority then in office shall constitute a quorum for the transaction of any business or the exercise of any power of the authority. Except as otherwise specified in this title, for the transaction of any business or the exercise of any power of the authority, the authority shall have power to act by a majority vote of the VOTING members present at any meeting at which a quorum is in attendance and except further, that in the event of a tie vote the chairman shall cast one additional vote.

(b) For purposes of determining the presence of a quorum, and for purposes of participation on any committee or subcommittee, those members who collectively cast a single vote pursuant to the provisions of paragraph (a) of subdivision one of this section shall be considered to be a single VOTING member, and the presence of such VOTING member shall be determined as provided in this subdivision. Except as otherwise provided in a by-law adopted as hereinafter provided, such single member constituting those members entitled to a collective vote shall be deemed present as a single member for purposes of a quorum if one or more of the members then in office entitled to cast such collective vote is present, and such collective vote shall be cast in accordance with the majority agreement of the members entitled to a collective vote who are present or in the event a single member entitled to a collective vote is present it shall be cast by that member. To evidence the existence of such majority agreement among the members entitled to a collective vote, each such member shall be polled as to his vote and such poll shall be recorded in the minutes. In the event a majority vote is not achieved by the members entitled to a collective vote who are present, then the vote shall not be cast. Nothing herein shall limit the right of an individual member to participate in board meetings or in other activities of the authority when the other members then in office entitled to collectively cast a vote are not present. At any meeting of the authority at which there is a quorum including all the members then in office entitled to cast a collective vote, the authority may adopt a by-law or by-laws regulating the casting of such collective vote, provided all members then in office entitled to cast a collective vote affirmatively approve such by-law or by-laws. Any action taken by the authority in accordance with any such by-law or by-laws adopted pursuant to the provisions of this paragraph shall take effect in the same manner as any other action of the authority. Any such by-law or by-laws shall not provide for the casting of any fractional vote. Nor shall such a by-law or by-laws provide for the amendment, repeal or adoption in the future of such a by-law or by-laws in a manner other than that set forth in this paragraph.

S 12. Subdivision 4 of section 1265-a of the public authorities law, as added by chapter 929 of the laws of 1986 and subparagraph (i) of paragraph (g) as amended by chapter 256 of the laws of 1998, is amended to read as follows:

4. Notwithstanding the foregoing, the authority may, by resolution approved by a two-thirds vote of its VOTING members then in office, or by a majority vote of its VOTING members with respect to contracts proposed to be let pursuant to paragraph (a) of this subdivision declare that competitive bidding is impractical or inappropriate because of the existence of any of the circumstances hereinafter set forth and thereafter the authority may proceed to award contracts without complying with the requirements of subdivision two or three of this section. In each case where the authority declares competitive bidding impractical or inappropriate, it shall state the reason therefor in writing and

summarize any negotiations that have been conducted. Except for contracts awarded pursuant to paragraphs (a), (b), (c) and (e) of this subdivision, the authority shall not award any contract pursuant to this subdivision earlier than thirty days from the date on which the authority declares that competitive bidding is impractical or inappropriate. Competitive bidding may only be declared impractical or inappropriate where:

(a) the existence of an emergency involving danger to life, safety or property requires immediate action and cannot await competitive bidding or the item to be purchased is essential to efficient operation or the adequate provision of service and as a consequence of unforeseen circumstance such purchase cannot await competitive bidding;

(b) the item to be purchased is available only from a single responsible source, provided that if bids have not been solicited for such item pursuant to subdivision two of this section within the preceding twelve months public notice shall first be given pursuant to subdivision three of this section;

(c) the authority receives no responsive bids or only a single responsive bid in response to an invitation for competitive bids;

(d) the authority wishes to experiment with or test a product or technology or new source for such product or technology or evaluate the service or reliability of such product or technology;

(e) the item is available through an existing contract between a vendor and (i) another public authority provided that such other authority utilized a process of competitive bidding or a process of competitive requests for proposals to award such contracts or (ii) Nassau county, or (iii) the state of New York or (iv) the city of New York, provided that in any case when under this paragraph the authority determines that obtaining such item thereby would be in the public interest and sets forth the reasons for such determination. The authority shall accept sole responsibility for any payment due the vendor as a result of the authority's order; or

(f) the authority determines that it is in the public interest to award contracts pursuant to a process for competitive requests for proposals as hereinafter set forth. For purposes of this section, a process for competitive requests for proposals shall mean a method of soliciting proposals and awarding a contract on the basis of a formal evaluation of the characteristics, such as quality, cost, delivery schedule and financing of such proposals against stated selection criteria. Public notice of the requests for proposals shall be given in the same manner as provided in subdivision three of this section and shall include the selection criteria. In the event the authority makes a material change in the selection criteria from those previously stated in the notice, it will inform all proposers of such change and permit proposers to modify their proposals.

(i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a two-thirds vote of its VOTING members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at

any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

(g) the authority issues a competitive request for proposals pursuant to the procedures of paragraph (f) of this subdivision for the purchase or rehabilitation of rail cars and omnibuses. Any such request may include among the stated selection criteria the performance of all or a portion of the contract at sites within the state of New York or the use of goods produced or services provided within the state of New York, provided however that in no event shall the authority award a contract to a manufacturer whose final offer, as expressed in unit cost is more than ten percent higher than the unit cost of any qualified competing final offer, if the sole basis for such award is that the higher priced offer includes more favorable provision for the performance of the contract within the state of New York or the use of goods produced or services provided within the state of New York, and further provided that the authority's discretion to award a contract to any manufacturer shall not be so limited if a basis for such award, as determined by the authority, is superior financing, delivery schedule, life cycle, reliability, or any other factor the authority deems relevant to its operations.

(i) The authority may award a contract pursuant to this paragraph only after a resolution approved by a vote of not less than a two-thirds vote of its VOTING members then in office at a public meeting of the authority with such resolution (A) disclosing the other proposers and the substance of their proposals, (B) summarizing the negotiation process including the opportunities, if any, available to proposers to present and modify their proposals, and (C) setting forth the criteria upon which the selection was made.

(ii) Nothing in this paragraph shall require or preclude (A) negotiations with any proposers following the receipt of responses to the request for proposals, or (B) the rejection of any or all proposals at any time. Upon the rejection of all proposals, the authority may solicit new proposals or bids in any manner prescribed in this section.

S 13. Subdivision 1 of section 1266 of the public authorities law, as amended by section 23 of part O of chapter 61 of the laws of 2000, is amended to read as follows:

1. The authority may acquire, by purchase, gift, grant, transfer, contract or lease, any transportation facility other than a transit facility or, subject to subdivision two of this section or any transportation facility constituting a transit facility, wholly or partially within the metropolitan commuter transportation district, or any part thereof, or the use thereof, and may enter into any joint service arrangements as hereinafter provided. Any such acquisition or joint service arrangement shall be authorized only by resolution of the authority approved by not less than a majority vote of the whole number of VOTING members of the authority then in office, except that in the event of a tie vote the chairman shall cast one additional vote.

S 14. Subdivision 3 of section 1266 of the public authorities law, as amended by chapter 314 of the laws of 1981, is amended to read as follows:

3. The authority may establish, levy and collect or cause to be established, levied and collected and, in the case of a joint service arrangement, join with others in the establishment, levy and collection of such fares, tolls, rentals, rates, charges and other fees as it may deem necessary, convenient or desirable for the use and operation of any transportation facility and related services operated by the authority

or by a subsidiary corporation of the authority or under contract, lease or other arrangement, including joint service arrangements, with the authority. Any such fares, tolls, rentals, rates, charges or other fees for the transportation of passengers shall be established and changed only if approved by resolution of the authority adopted by not less than a majority vote of the whole number of VOTING members of the authority then in office, with the chairman having one additional vote in the event of a tie vote, and only after a public hearing, provided however, that fares, tolls, rentals, rates, charges or other fees for the transportation of passengers on any transportation facility which are in effect at the time that the then owner of such transportation facility becomes a subsidiary corporation of the authority or at the time that operation of such transportation facility is commenced by the authority or is commenced under contract, lease or other arrangement, including joint service arrangements, with the authority may be continued in effect without such a hearing. Such fares, tolls, rentals, rates, charges and other fees shall be established as may in the judgment of the authority be necessary to maintain the combined operations of the authority and its subsidiary corporations on a self-sustaining basis. The said operations shall be deemed to be on a self-sustaining basis as required by this title, when the authority is able to pay or cause to be paid from revenue and any other funds or property actually available to the authority and its subsidiary corporations (a) as the same shall become due, the principal of and interest on the bonds and notes and other obligations of the authority and of such subsidiary corporations, together with the maintenance of proper reserves therefor, (b) the cost and expense of keeping the properties and assets of the authority and its subsidiary corporations in good condition and repair, and (c) the capital and operating expenses of the authority and its subsidiary corporations. The authority may contract with the holders of bonds and notes with respect to the exercise of the powers authorized by this section. No acts or activities taken or proposed to be taken by the authority or any subsidiary of the authority pursuant to the provisions of this subdivision shall be deemed to be "actions" for the purposes or within the meaning of article eight of the environmental conservation law.

S 15. Subdivision 2 of section 1269 of the public authorities law, as amended by section 27 of part O of chapter 61 of the laws of 2000, is amended to read as follows:

2. The notes, bonds and other obligations shall be authorized by resolution approved by not less than a majority vote of the whole number of VOTING members of the authority then in office, except that in the event of a tie vote the chairman shall cast one additional vote. Such notes, bonds and other obligations shall bear such date or dates, and shall mature at such time or times, in the case of any such note or any renewals thereof not exceeding five years from the date of issue of such original note, and in the case of any such bond not exceeding fifty years from the date of issue, as such resolution or resolutions may provide. The notes, bonds and other obligations shall bear interest at such rate or rates, be in such denominations, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places and be subject to such terms of redemption as such resolution or resolutions may provide. The notes, bonds and other obligations of the authority may be sold by the authority, at public or private sale, at such price or prices as the authority shall determine. No notes or bonds

of the authority may be sold by the authority at private sale, however, unless such sale and the terms thereof have been approved in writing by (a) the comptroller, where such sale is not to the comptroller, or (b) the director of the budget, where such sale is to the comptroller.

S 16. This act shall take effect immediately; provided, however, that the amendments to paragraph (a) of subdivision 1 of section 1263 of the public authorities law made by sections nine and ten of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.