

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

10212

I N A S S E M B L Y

May 14, 2012

Introduced by M. of A. BRENNAN, SWEENEY, GOLDFEDER, P. RIVERA, CRESPO --
Multi-Sponsored by -- M. of A. ABBATE, AUBRY, CLARK, COOK, GIBSON,
GUNTHER, JACOBS, JAFFEE, LUPARDO, MAGEE, MAGNARELLI, MARKEY,
O'DONNELL, REILLY, ROSENTHAL, SCARBOROUGH, TITONE, TITUS, WEISENBERG,
WEPRIN, WRIGHT -- read once and referred to the Committee on Corpo-
rations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the department of
public service; and to amend the public authorities law, in relation
to the power authority of the State of New York

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

1 Section 1. This act shall be known and may be cited as the "Power
2 Authority of the State of New York oversight and accountability act".
3 S 2. Section 3 of the public service law is amended by adding a new
4 subdivision 3 to read as follows:
5 3. THE DEPARTMENT SHALL, UPON NOTIFICATION TO THE POWER AUTHORITY OF
6 THE STATE OF NEW YORK, UNDERTAKE A COMPREHENSIVE AND REGULAR MANAGEMENT
7 AND OPERATIONS AUDIT OF SAID AUTHORITY PURSUANT TO SUBDIVISION
8 TWENTY-FOUR OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.
9 THE DEPARTMENT SHALL HAVE DISCRETION TO HAVE SUCH AN AUDIT PERFORMED BY
10 ITS STAFF, OR BY AN INDEPENDENT CONTRACTOR. IN EVERY CASE IN WHICH AN
11 AUDIT IS REQUIRED PURSUANT TO SUBDIVISION TWENTY-FOUR OF SECTION ONE
12 THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW PERFORMED BY AN INDEPENDENT
13 AUDITOR, THE DEPARTMENT SHALL HAVE THE AUTHORITY TO SELECT THE AUDITOR,
14 AND TO REQUIRE THE POWER AUTHORITY OF THE STATE OF NEW YORK TO ENTER
15 INTO A CONTRACT WITH THE AUDITOR THAT IS CONSISTENT WITH THE CONTRACT-
16 ING-RELATED REQUIREMENTS SPECIFIED IN SUBDIVISION NINETEEN OF SECTION
17 SIXTY-SIX OF THIS CHAPTER AND THE REQUIREMENTS OF SUBDIVISION
18 TWENTY-FOUR OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.
19 SUCH CONTRACT SHALL PROVIDE FURTHER THAT THE AUDITOR SHALL WORK FOR AND
20 UNDER THE DIRECTION OF THE DEPARTMENT ACCORDING TO SUCH TERMS AS THE
21 DEPARTMENT MAY DETERMINE ARE NECESSARY AND REASONABLE.
22 S 3. Section 1005 of the public authorities law is amended by adding a
23 new subdivision 24 to read as follows:

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

LBD02907-05-2

1 24. COMPREHENSIVE AND REGULAR MANAGEMENT AND OPERATIONS AUDITS. (A)
2 THE AUTHORITY SHALL COOPERATE IN THE UNDERTAKING AND COMPLETION OF A
3 REGULAR AND COMPREHENSIVE MANAGEMENT AND OPERATIONS AUDIT CONDUCTED
4 PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION AND SUBDIVISION THREE
5 OF SECTION THREE OF THE PUBLIC SERVICE LAW. SUCH AUDIT SHALL REVIEW AND
6 EVALUATE THE AUTHORITY'S OVERALL OPERATIONS AND MANAGEMENT, INCLUDING,
7 BUT NOT BE LIMITED TO: (I) THE AUTHORITY'S CONSTRUCTION AND CAPITAL
8 PROGRAM PLANNING IN RELATION TO THE NEEDS OF ITS CUSTOMERS FOR RELIABLE
9 SERVICE; (II) THE OVERALL EFFICIENCY OF THE AUTHORITY'S OPERATIONS;
10 (III) THE MANNER IN WHICH THE AUTHORITY IS MEETING ITS DEBT SERVICE
11 OBLIGATIONS; (IV) THE AUTHORITY'S ANNUAL BUDGETING PROCEDURES AND PROC-
12 ESS; (V) THE AUTHORITY'S COMPLIANCE WITH DEBT COVENANTS; (VI) THE IMPE-
13 MENTATION OF RECHARGE NEW YORK POWER PROGRAM PURSUANT TO SUBDIVISION
14 THIRTEEN-A OF THIS SECTION; (VII) THE IMPLEMENTATION AND EFFICACY OF THE
15 ENERGY EFFICIENCY PROGRAM PURSUANT TO PARAGRAPH (C) OF SUBDIVISION THIR-
16 TEEN-B OF THIS SECTION; (VIII) THE IMPLEMENTATION OF THE ENERGY EFFI-
17 CIENCY PROJECTS PROGRAM PURSUANT TO SUBDIVISION SEVENTEEN OF THIS
18 SECTION; AND (IX) SUCH OTHER SERVICES, OPERATIONS AND FINANCES OF THE
19 AUTHORITY AS THE COMMISSION SHALL DEEM ADVISABLE.

20 (B) THE DEPARTMENT OF PUBLIC SERVICE SHALL NOTIFY THE AUTHORITY THAT
21 SAID DEPARTMENT IS IN THE PROCESS OF INITIATING A COMPREHENSIVE MANAGE-
22 MENT AND OPERATIONS AUDIT AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVI-
23 SION IN A MANNER THAT ENSURES THE TIMELINESS OF SUCH AUDIT, AND IN
24 ACCORDANCE WITH THE FOLLOWING TIMEFRAME: THE FIRST COMPREHENSIVE MANAGE-
25 MENT AND OPERATIONS AUDIT SHALL BE INITIATED AS OF THE EFFECTIVE DATE OF
26 THIS SUBDIVISION; THE SECOND COMPREHENSIVE MANAGEMENT AND OPERATIONS
27 AUDIT SHALL BE INITIATED NO LATER THAN DECEMBER FIFTEENTH, TWO THOUSAND
28 SIXTEEN; AND ALL ADDITIONAL COMPREHENSIVE MANAGEMENT AND OPERATIONS
29 AUDITS SHALL BE INITIATED AT LEAST ONCE EVERY FIVE YEARS THEREAFTER.
30 WITHIN A REASONABLE TIME AFTER SUCH NOTIFICATION TO THE AUTHORITY, SAID
31 DEPARTMENT OR THE INDEPENDENT AUDITOR RETAINED BY THE AUTHORITY TO
32 UNDERTAKE SUCH AUDIT SHALL HOLD PUBLIC STATEMENT HEARINGS, WITH PROPER
33 NOTICE, IN EACH JUDICIAL DEPARTMENT IN THE STATE FOR THE PURPOSE OF
34 RECEIVING BOTH ORAL AND WRITTEN COMMENTS FROM THE PUBLIC ON MATTERS
35 RELATED TO SUCH AUDIT AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION.

36 (C) EACH SUCH AUDIT SHALL BE COMPLETED WITHIN EIGHTEEN MONTHS OF
37 INITIATION UNLESS AN EXTENSION IS GRANTED FOR GOOD CAUSE SHOWN BY THE
38 DEPARTMENT OF PUBLIC SERVICE OR THE INDEPENDENT AUDITOR UNDER CONTRACT
39 WITH THE AUTHORITY WITH NOTICE OF SUCH EXTENSION TO THE GOVERNOR, THE
40 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE
41 CHAIRS OF THE AUTHORITY AND THE DEPARTMENT OF PUBLIC SERVICE. SUCH AUDIT
42 SHALL BE PROVIDED TO THE BOARD OF THE AUTHORITY IMMEDIATELY UPON ITS
43 COMPLETION. THE DEPARTMENT OF PUBLIC SERVICE SHALL PROVIDE NOTICE OF
44 COMPLETION OF SUCH AUDIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
45 SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADERS OF THE
46 SENATE AND ASSEMBLY, AND THE AUTHORITY, UPON RECEIPT OF SUCH AUDIT,
47 SHALL POST A COPY OF SUCH AUDIT, INCLUDING FINDINGS AND RECOMMENDATIONS,
48 ON ITS WEBSITE. UNLESS THE BOARD OF THE AUTHORITY MAKES A PRELIMINARY
49 DETERMINATION THAT ANY PARTICULAR FINDING OR RECOMMENDATION CONTAINED IN
50 SUCH AUDIT IS INCONSISTENT WITH THE AUTHORITY'S SOUND FISCAL OPERATING
51 PRACTICES, ANY EXISTING CONTRACTUAL OR OPERATING OBLIGATION, OR THE
52 PROVISION FOR SAFE AND ADEQUATE SERVICE, THE BOARD SHALL IMPLEMENT SUCH
53 FINDINGS AND RECOMMENDATIONS IN ACCORDANCE WITH THE TIMEFRAME SPECIFIED
54 UNDER SUCH AUDIT.

55 (D) THE BOARD OF THE AUTHORITY SHALL MAKE ANY PRELIMINARY DETERMI-
56 NATION OF INCONSISTENCY WITH RESPECT TO ANY SUCH FINDING OR RECOMMENDA-

1 TION WITHIN THIRTY DAYS OF RECEIPT OF THE AUDIT, WITH NOTICE AND THE
2 BASIS OF SUCH DETERMINATION BEING PROVIDED TO THE DEPARTMENT OF PUBLIC
3 SERVICE. SUCH NOTICE AND BASIS SHALL BE POSTED CONTEMPORANEOUSLY ON THE
4 AUTHORITY'S WEBSITE AND THE BOARD SHALL, WITHIN THIRTY DAYS OF SUCH
5 POSTING AND WITH DUE ADVANCE NOTICE TO THE PUBLIC, HOLD A PUBLIC HEARING
6 WITH RESPECT TO ITS PRELIMINARY DETERMINATION OF INCONSISTENCY. AT SUCH
7 HEARING THE DEPARTMENT OF PUBLIC SERVICE OR THE INDEPENDENT AUDITOR
8 RESPONSIBLE FOR UNDERTAKING SUCH AUDIT SHALL PRESENT THE BASIS FOR ITS
9 FINDINGS AND RECOMMENDATIONS AND THE BOARD SHALL PRESENT THE BASIS FOR
10 ITS DETERMINATION OF INCONSISTENCY. THE AUTHORITY AND AUDITOR MAY DURING
11 THE TIME PERIOD PRIOR TO SUCH PUBLIC HEARING REACH AGREEMENT ON DISPUTED
12 ISSUES. WITHIN THIRTY DAYS AFTER SUCH PUBLIC HEARING, THE BOARD OF THE
13 AUTHORITY SHALL ANNOUNCE ITS FINAL DETERMINATION AND PLANNED IMPLEMENTA-
14 TIONS WITH RESPECT TO ANY SUCH FINDINGS AND/OR RECOMMENDATIONS. THE
15 BOARD'S FINAL DETERMINATION OF INCONSISTENCY SHALL BE SUBJECT TO ANY
16 APPLICABLE JUDICIAL REVIEW PROCEEDING, INCLUDING REVIEW AVAILABLE UNDER
17 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.
18 S 4. This act shall take effect immediately.