

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. MARCELLINO, GOLDEN, LARKIN, LAVALLE -- 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.

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

LBD04428-01-1

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

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

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

6 2. "AUTHORITY" OR "METROPOLITAN TRANSPORTATION AUTHORITY INTERIM
7 FINANCE AUTHORITY" MEANS THE PUBLIC BENEFIT CORPORATION CREATED BY THIS
8 TITLE.

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

11 4. "CHIEF FINANCIAL OFFICER" MEANS THE CHIEF FINANCIAL OFFICER OF THE
12 METROPOLITAN TRANSPORTATION AUTHORITY.

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

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

18 7. "BY-LAWS" MEANS THE BY-LAWS OF THE METROPOLITAN TRANSPORTATION
19 AUTHORITY, AS AMENDED.

20 8. "CHIEF EXECUTIVE OFFICER" MEANS THE CHIEF EXECUTIVE OFFICER OF THE
21 METROPOLITAN TRANSPORTATION AUTHORITY.

22 9. "DIRECTOR OF THE BUDGET" MEANS THE DIRECTOR OF THE BUDGET OF THE
23 STATE.

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

27 11. "PUBLIC CORPORATION" MEANS AND INCLUDES THE METROPOLITAN TRANSPOR-
28 TATION AUTHORITY, THE STATE AND EVERY PUBLIC CORPORATION AS DEFINED IN
29 THE GENERAL CONSTRUCTION LAW.

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

31 S 3752. METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORI-
32 TY. 1. THERE IS HEREBY CREATED THE METROPOLITAN TRANSPORTATION AUTHORITY
33 INTERIM FINANCE AUTHORITY. THE AUTHORITY SHALL BE A CORPORATE GOVERN-
34 MENTAL AGENCY AND INSTRUMENTALITY OF THE STATE CONSTITUTING A PUBLIC
35 BENEFIT CORPORATION.

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

40 S 3753. ADMINISTRATION OF THE AUTHORITY. 1. THE AUTHORITY SHALL BE
41 ADMINISTERED BY SEVEN DIRECTORS. OF THE SEVEN DIRECTORS, TWO SHALL BE
42 APPOINTED BY THE GOVERNOR, ONE SHALL BE APPOINTED BY THE MAJORITY LEADER
43 OF THE SENATE, ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY,
44 ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE SHALL
45 BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY AND ONE SHALL BE
46 APPOINTED BY THE STATE COMPTROLLER. EACH DIRECTOR SHALL BE APPOINTED FOR
47 A TERM OF FOUR YEARS, PROVIDED HOWEVER, THAT THE DIRECTORS FIRST
48 APPOINTED BY THE GOVERNOR SHALL SERVE FOR A TERM ENDING DECEMBER THIR-
49 TY-FIRST, TWO THOUSAND FIFTEEN, AND THE FIVE OTHER DIRECTORS FIRST
50 APPOINTED SHALL SERVE FOR THE FOLLOWING TERMS: THE DIRECTORS FIRST
51 APPOINTED BY THE MAJORITY LEADER OF THE SENATE, THE SPEAKER OF THE STATE
52 ASSEMBLY AND THE STATE COMPTROLLER SHALL SERVE FOR A TERM ENDING DECEM-
53 BER THIRTY-FIRST, TWO THOUSAND SIXTEEN AND DIRECTORS FIRST APPOINTED BY
54 THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEM-
55 BLY SHALL SERVE FOR A TERM ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND
56 SEVENTEEN. EACH DIRECTOR SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR

1 HAS BEEN APPOINTED AND QUALIFIED. THEREAFTER EACH DIRECTOR SHALL SERVE
2 A TERM OF FOUR YEARS, EXCEPT THAT ANY DIRECTOR APPOINTED TO FILL A
3 VACANCY SHALL SERVE ONLY UNTIL THE EXPIRATION OF HIS OR HER PREDECES-
4 SOR'S TERM.

5 2. THE GOVERNOR SHALL DESIGNATE A CHAIRPERSON AND A VICE-CHAIRPERSON
6 FROM AMONG THE DIRECTORS. THE CHAIRPERSON SHALL PRESIDE OVER ALL MEET-
7 INGS OF THE DIRECTORS AND SHALL HAVE SUCH OTHER DUTIES AS THE DIRECTORS
8 MAY PRESCRIBE. THE VICE-CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF
9 THE DIRECTORS IN THE ABSENCE OF THE CHAIRPERSON AND SHALL HAVE SUCH
10 OTHER DUTIES AS THE DIRECTORS MAY PRESCRIBE.

11 3. THE DIRECTORS OF THE AUTHORITY SHALL SERVE WITHOUT SALARY, BUT EACH
12 DIRECTOR SHALL BE REIMBURSED FOR ACTUAL AND NECESSARY EXPENSES INCURRED
13 IN THE PERFORMANCE OF SUCH DIRECTOR'S OFFICIAL DUTIES AS A DIRECTOR OF
14 THE AUTHORITY.

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

25 5. FOUR DIRECTORS SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY
26 BUSINESS OR THE EXERCISE OF ANY POWER OF THE AUTHORITY. NO ACTION SHALL
27 BE TAKEN BY THE AUTHORITY EXCEPT PURSUANT TO A FAVORABLE VOTE OF AT
28 LEAST FOUR DIRECTORS PARTICIPATING IN A MEETING AT WHICH SUCH ACTION IS
29 TAKEN.

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

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

35 1. TO SUE AND BE SUED;

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

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

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

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

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

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

1 8. TO DO ANY AND ALL THINGS NECESSARY OR CONVENIENT TO CARRY OUT ITS
2 PURPOSES AND EXERCISE THE POWERS EXPRESSLY GIVEN AND GRANTED IN THIS
3 TITLE; PROVIDED, HOWEVER, SUCH AUTHORITY SHALL UNDER NO CIRCUMSTANCES
4 ACQUIRE, HOLD OR TRANSFER TITLE TO, LEASE, OWN BENEFICIALLY OR OTHER-
5 WISE, MANAGE, OPERATE OR OTHERWISE EXERCISE CONTROL OVER ANY REAL PROP-
6 erty, ANY IMPROVEMENT TO REAL PROPERTY OR ANY INTEREST THEREIN OTHER
7 THAN A LEASE OR SUBLEASE OF OFFICE SPACE DEEMED NECESSARY OR DESIRABLE
8 BY THE AUTHORITY.

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

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

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

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

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

44 S 3757. ACTIONS AGAINST THE AUTHORITY. 1. EXCEPT IN AN ACTION FOR
45 WRONGFUL DEATH, NO ACTION OR PROCEEDING SHALL BE PROSECUTED OR MAIN-
46 TAINED AGAINST THE AUTHORITY FOR PERSONAL INJURY OR DAMAGE TO REAL OR
47 PERSONAL PROPERTY ALLEGED TO HAVE BEEN SUSTAINED BY REASON OF THE NEGLI-
48 GENCE OR WRONGFUL ACT OF THE AUTHORITY OR OF ANY DIRECTOR, OFFICER,
49 AGENT OR EMPLOYEE THEREOF, UNLESS (A) IT SHALL APPEAR BY AND AS AN ALLE-
50 GATION IN THE COMPLAINT OR MOVING PAPERS THAT A NOTICE OF CLAIM SHALL
51 HAVE BEEN MADE AND SERVED UPON THE AUTHORITY, WITHIN THE TIME LIMIT
52 PRESCRIBED BY AND IN COMPLIANCE WITH SECTION FIFTY-E OF THE GENERAL
53 MUNICIPAL LAW, (B) IT SHALL APPEAR BY AND AS AN ALLEGATION IN THE
54 COMPLAINT OR MOVING PAPERS THAT AT LEAST THIRTY DAYS HAVE ELAPSED SINCE
55 THE SERVICE OF SUCH NOTICE AND THAT ADJUSTMENT OR PAYMENT THEREOF HAS
56 BEEN NEGLECTED OR REFUSED, AND (C) THE ACTION OR PROCEEDING SHALL BE

1 COMMENCED WITHIN ONE YEAR AFTER THE HAPPENING OF THE EVENT UPON WHICH
2 THE CLAIM IS BASED. AN ACTION AGAINST THE AUTHORITY FOR WRONGFUL DEATH
3 SHALL BE COMMENCED IN ACCORDANCE WITH THE NOTICE OF CLAIM AND TIME LIM-
4 TATION PROVISIONS OF TITLE ELEVEN OF ARTICLE NINE OF THIS CHAPTER.

5 2. WHEREVER A NOTICE OF CLAIM IS SERVED UPON THE AUTHORITY, IT SHALL
6 HAVE THE RIGHT TO DEMAND AN EXAMINATION OF THE CLAIMANT RELATIVE TO THE
7 OCCURRENCE AND EXTENT OF THE INJURIES OR DAMAGES FOR WHICH CLAIM IS
8 MADE, IN ACCORDANCE WITH THE PROVISIONS OF SECTION FIFTY-H OF THE GENER-
9 AL MUNICIPAL LAW.

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

17 4. THE RATE OF INTEREST TO BE PAID BY THE AUTHORITY UPON ANY JUDGMENT
18 FOR WHICH IT IS LIABLE SHALL NOT EXCEED THE MAXIMUM RATE OF INTEREST ON
19 JUDGMENTS AND ACCRUED CLAIMS AGAINST MUNICIPAL AUTHORITIES AS PROVIDED
20 IN THE GENERAL MUNICIPAL LAW. INTEREST ON PAYMENTS OF PRINCIPAL OR
21 INTEREST ON ANY BONDS IN DEFAULT SHALL ACCRUE AT THE RATE SPECIFIED IN
22 THE GENERAL MUNICIPAL LAW UNTIL PAID OR OTHERWISE SATISFIED.

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

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

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

1 REASONABLE ATTORNEYS' FEES AND LITIGATION EXPENSES SHALL BE PAID BY THE
2 STATE TO SUCH PRIVATE COUNSEL FROM TIME TO TIME DURING THE PENDENCY OF
3 THE CIVIL ACTION OR PROCEEDING, SUBJECT TO CERTIFICATION THAT THE INDI-
4 VIDUAL IS ENTITLED TO REPRESENTATION UNDER THE TERMS AND CONDITIONS OF
5 THIS SECTION BY THE AUTHORITY, UPON THE AUDIT AND WARRANT OF THE STATE
6 COMPTROLLER. THE PROVISIONS OF THIS SUBDIVISION SHALL BE IN ADDITION TO
7 AND SHALL NOT SUPPLANT ANY INDEMNIFICATION OR OTHER BENEFITS HERETOFORE
8 OR HEREAFTER CONFERRED UPON DIRECTORS, OFFICERS, OR EMPLOYEES OF AND
9 REPRESENTATIVES TO THE AUTHORITY BY SECTION SEVENTEEN OF THE PUBLIC
10 OFFICERS LAW, BY ACTION OF THE AUTHORITY OR OTHERWISE. THE PROVISIONS OF
11 THIS SUBDIVISION SHALL INURE ONLY TO DIRECTORS, OFFICERS AND EMPLOYEES
12 OF AND REPRESENTATIVES TO THE AUTHORITY, SHALL NOT ENLARGE OR DIMINISH
13 THE RIGHTS OF ANY OTHER PARTY, AND SHALL NOT IMPAIR, LIMIT OR MODIFY THE
14 RIGHTS AND OBLIGATIONS OF ANY INSURER UNDER ANY POLICY OF INSURANCE.

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

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

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

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

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

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

53 1. CONDUCT MEETINGS AT LEAST ANNUALLY;

54 2. OBTAIN FROM THE MTA ALL INFORMATION REQUIRED PURSUANT TO THIS
55 SECTION, AND SUCH OTHER FINANCIAL STATEMENTS AND PROJECTIONS, BUDGETARY
56 DATA AND INFORMATION, AND MANAGEMENT REPORTS AND MATERIALS AS THE

1 AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE PURPOSES OF
2 THIS TITLE;

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

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

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

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

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

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

52 (A) THE AUTHORITY SHALL (I) CONSULT WITH THE MTA IN THE PREPARATION OF
53 THE FINANCIAL PLAN, AND CERTIFY TO THE MTA THE REVENUE ESTIMATES
54 APPROVED THEREIN, (II) PRESCRIBE THE FORM OF THE FINANCIAL PLAN AND THE
55 SUPPORTING INFORMATION REQUIRED IN CONNECTION THEREWITH, AND (III) EXER-
56 CISE THE RIGHTS OF APPROVAL, DISAPPROVAL AND MODIFICATION WITH RESPECT

1 TO THE FINANCIAL PLAN, INCLUDING BUT NOT LIMITED TO THE REVENUE ESTI-
2 MATES CONTAINED THEREIN.

3 (B) THE AUTHORITY SHALL, FROM TIME TO TIME AND TO THE EXTENT IT DEEMS
4 NECESSARY OR DESIRABLE IN ORDER TO ACCOMPLISH THE PURPOSES OF THIS
5 TITLE, (I) REVIEW THE OPERATIONS, MANAGEMENT, EFFICIENCY AND PRODUCTIV-
6 ITY OF SUCH MTA OPERATIONS OR PORTIONS THEREOF AS THE AUTHORITY MAY
7 DETERMINE, AND MAKE REPORTS THEREON; (II) AUDIT COMPLIANCE WITH THE
8 FINANCIAL PLAN IN SUCH AREAS AS THE AUTHORITY MAY DETERMINE; (III)
9 RECOMMEND TO THE MTA SUCH MEASURES RELATING TO THEIR OPERATIONS, MANAGE-
10 MENT, EFFICIENCY AND PRODUCTIVITY AS IT DEEMS APPROPRIATE TO REDUCE
11 COSTS AND IMPROVE SERVICES SO AS TO ADVANCE THE PURPOSES OF THIS TITLE;
12 AND (IV) OBTAIN INFORMATION ON THE FINANCIAL CONDITION AND NEEDS OF THE
13 MTA. NOTHING HEREIN SHALL DIMINISH THE POWERS OF THE STATE COMPTROLLER
14 OTHERWISE PROVIDED BY LAW AND THE AUTHORITY MAY REQUEST THE ASSISTANCE
15 OF THE STATE COMPTROLLER IN THE PERFORMANCE OF THE ABOVE FUNCTIONS.

16 (C) THE AUTHORITY SHALL (I) RECEIVE FROM THE MTA AND FROM THE STATE
17 COMPTROLLER, AND REVIEW, SUCH FINANCIAL STATEMENTS AND PROJECTIONS,
18 BUDGETARY DATA AND INFORMATION, AND MANAGEMENT REPORTS AND MATERIALS AS
19 THE AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE PURPOSES OF
20 THIS TITLE, AND (II) INSPECT, COPY AND AUDIT SUCH BOOKS AND RECORDS OF
21 THE MTA AS THE AUTHORITY DEEMS NECESSARY OR DESIRABLE TO ACCOMPLISH THE
22 PURPOSES OF THIS TITLE.

23 (D) ALL CONTRACTS ENTERED INTO BY THE MTA DURING ANY CONTROL PERIOD
24 MUST BE CONSISTENT WITH THE PROVISIONS OF THIS TITLE AND MUST COMPLY
25 WITH THE REQUIREMENTS OF THE FINANCIAL PLAN AS APPROVED BY THE AUTHORI-
26 TY. WITH RESPECT TO ALL CONTRACTS OR OTHER OBLIGATIONS TO BE ENTERED
27 INTO BY THE MTA DURING ANY CONTROL PERIOD REQUIRING THE PAYMENT OF FUNDS
28 OR THE INCURRING OF COSTS BY THE MTA:

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

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

55 (III) THE AUTHORITY SHALL, BY ORDER, DISAPPROVE ANY CONTRACT OR OTHER
56 OBLIGATION REVIEWED BY IT ONLY AFTER ADOPTION OF A RESOLUTION DETERMIN-

1 ING THAT, IN ITS JUDGMENT, THE PERFORMANCE OF SUCH CONTRACT OR OTHER
2 OBLIGATION WOULD BE INCONSISTENT WITH THE FINANCIAL PLAN, AND UPON SUCH
3 ORDER THE MTA SHALL NOT ENTER INTO SUCH CONTRACT OR OTHER OBLIGATION;
4 AND

5 (IV) IF THE AUTHORITY APPROVES THE TERMS OF A REVIEWED CONTRACT OR
6 OTHER OBLIGATION, THE MTA MAY ENTER INTO SUCH CONTRACT OR OTHER OBLI-
7 GATION UPON THE TERMS SUBMITTED TO THE AUTHORITY. FAILURE OF THE AUTHOR-
8 ITY TO NOTIFY THE MTA WITHIN THIRTY DAYS (OR SUCH ADDITIONAL TIME, NOT
9 EXCEEDING THIRTY DAYS, AS THE AUTHORITY SHALL HAVE NOTIFIED THE MTA THAT
10 IT REQUIRES TO COMPLETE ITS REVIEW AND ANALYSIS) AFTER SUBMISSION TO IT
11 OF A CONTRACT OR OTHER OBLIGATION THAT SUCH CONTRACT OR OTHER OBLIGATION
12 HAS BEEN DISAPPROVED SHALL BE DEEMED TO CONSTITUTE AUTHORITY APPROVAL
13 THEREOF.

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

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

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

1 (B) THIS SUBDIVISION SHALL NOT BE APPLICABLE TO EMPLOYEES OF THE MTA
2 COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYEE OF THE MTA
3 NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT WHERE THE COLLECTIVE
4 BARGAINING REPRESENTATIVE OR SUCH UNREPRESENTED EMPLOYEE HAS AGREED TO A
5 DEFERMENT OF SALARY OR WAGE INCREASE, BY AN INSTRUMENT IN WRITING WHICH
6 HAS BEEN CERTIFIED BY THE AUTHORITY AS BEING AN ACCEPTABLE AND APPROPRI-
7 ATE CONTRIBUTION TOWARD ALLEVIATING THE FISCAL CRISIS OF THE MTA. ANY
8 SUCH AGREEMENT TO A DEFERMENT OF SALARY OR WAGE INCREASE MAY PROVIDE
9 THAT FOR THE PURPOSES OF COMPUTING THE PENSION BASE OF RETIREMENT ALLOW-
10 ANCES, ANY DEFERRED SALARY OR WAGE INCREASE MAY BE CONSIDERED AS PART OF
11 COMPENSATION OR FINAL COMPENSATION OR OF ANNUAL SALARY EARNED OR EARNA-
12 BLE.

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

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

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

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

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

46 S 3763. MISCELLANEOUS PROVISIONS. 1. NOTHING CONTAINED IN THIS TITLE
47 SHALL LIMIT THE RIGHT OF THE MTA TO COMPLY WITH THE PROVISIONS OF ANY
48 EXISTING CONTRACT WITHIN OR FOR THE BENEFIT OF THE HOLDERS OF ANY BONDS
49 OR NOTES OF THE MTA.

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

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

4 S 3764. EFFECT OF INCONSISTENT PROVISIONS. INsofar AS THE PROVISIONS
5 OF THIS TITLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT,
6 GENERAL OR SPECIAL, OR OF ANY CHARTER, LOCAL LAW, ORDINANCE OR RESOL-
7 UTION OF ANY MUNICIPALITY, THE PROVISIONS OF THIS TITLE SHALL BE
8 CONTROLLING. NOTHING CONTAINED IN THIS SECTION SHALL BE HELD TO SUPPLE-
9 MENT OR OTHERWISE EXPAND THE POWERS OR DUTIES OF THE AUTHORITY OTHERWISE
10 SET FORTH IN THIS TITLE.

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

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

26 S 3. This act shall take effect immediately.