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

5097

2011-2012 Regular Sessions

I N A S S E M B L Y

February 11, 2011

Introduced by M. of A. OAKS, CORWIN, FINCH -- Multi-Sponsored by -- M. of A. BARCLAY, CALHOUN, CONTE, CROUCH, DUPREY, GOODELL, JORDAN, KOLB, J. MILLER, MOLINARO, MONTESANO, PALMESANO, SAYWARD -- read once and referred to the Committee on Local Governments

AN ACT to amend the general municipal law, in relation to authorizing participation by public benefit corporations in intermunicipal agreements

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

Section 1. Section 119-o of the general municipal law, as added by chapter 102 of the laws of 1960, the section heading as amended and subdivision 3 as added by chapter 605 of the laws of 1993, subdivision 1 as amended by chapter 623 of the laws of 1998, subdivision 2 as designated and the opening paragraph and paragraphs b, c, g, h, i and l of subdivision 2 as amended by chapter 681 of the laws of 1961, paragraph a of subdivision 2 as amended by section 33 of part X of chapter 62 of the laws of 2003, paragraph j of subdivision 2 as amended by chapter 620 of the laws of 1996 and paragraph m of subdivision 2 as added by chapter 236 of the laws of 1974, is amended to read as follows:

S 119-o. Performance of municipal cooperative activities; alternative powers; alternative assignment of responsibilities. 1. In addition to any other general or special powers vested in municipal corporations [and], districts AND PUBLIC BENEFIT CORPORATIONS for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, municipal corporations [and], districts AND PUBLIC BENEFIT CORPORATIONS shall have power to enter into, amend, cancel and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service or a joint water, sewage or drainage project. Notwithstanding the foregoing grant of authority, the tempo-

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

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rary investment of moneys by more than one municipal corporation [or], district OR PUBLIC BENEFIT CORPORATION pursuant to a municipal cooperation agreement which meets the definition of "cooperative investment agreement" as set forth in article three-A of this chapter shall be in compliance with all of the requirements of that article. Any agreement entered into hereunder shall be approved by each participating municipal corporation [or], district OR PUBLIC BENEFIT CORPORATION by a majority vote of the voting strength of its governing body. Where the authority of any municipal corporation [or], district OR PUBLIC BENEFIT CORPORATION to perform by itself any function, power and duty or to provide by itself any facility, service, activity, project or undertaking or the financing thereof is, by any other general or special law, subject to a public hearing, a mandatory or permissive referendum, consents of governmental agencies, or other requirements applicable to the making of contracts, then its right to participate in an agreement hereunder shall be similarly conditioned.

2. An agreement may contain provisions relating to:

a. A method or formula for equitably providing for and allocating revenues and for equitably allocating and financing the capital and operating costs, including payments to reserve funds authorized by law and payments of principal and interest on obligations. Such method or formula shall be established by the participating corporations [or], districts OR PUBLIC BENEFIT CORPORATIONS on a ratio of full valuations of real property, or on the basis of the amount of services rendered or to be rendered, or benefits received or conferred or to be received or conferred, or on the increase in taxable assessed value attributable to the function, facility, service, activity or project which is the subject of an agreement, or on any other equitable basis, including the levying of taxes or assessments to pay such costs on the entire area of the corporation [or], district OR PUBLIC BENEFIT CORPORATIONS, or on a part thereof, which is benefited or which receives the service.

b. The manner of employing, engaging, compensating, transferring or discharging necessary personnel, subject, however, to the provisions of the civil service law where applicable; the making of employer's contributions for retirement, social security, health insurance, [workmen's] WORKERS' compensation and other similar benefits; the approval of attendances at conventions, conferences and schools for public officials and the approval and payment of travel and other expenses incurred in the performance of official duties; the bonding of designated officers and employees; the filing of oaths of office and resignations consistent with general laws applicable thereto; provisions that for specific purposes designated officers or employees of the joint service or a joint water, sewage or drainage project shall be deemed those of a specified participating corporation [or], district OR PUBLIC BENEFIT CORPORATION; and provisions that personnel assigned to a joint service or a joint water, sewage or drainage project shall possess the same powers, duties, immunities and privileges they would ordinarily possess (1) if they performed their duties only in the corporation [or], district OR PUBLIC BENEFIT CORPORATION by which they are employed or (2) if they were employed by the corporation [or], district OR PUBLIC BENEFIT CORPORATION in which they are required to perform their duties.

c. Responsibility for the establishment, operation and maintenance of the joint service or joint water, sewage or drainage project and the officers responsible for the immediate supervision and control thereof; the fixing and collecting of charges, rates, rents or fees, where appropriate, and the making and promulgation of necessary rules and regu-

lations and their enforcement by or with the assistance of the participating corporations [and], districts AND PUBLIC BENEFIT CORPORATIONS; the conduct of hearings and the determination of issues raised thereat; the making of necessary inspections; the keeping of records and the making of reports including those required by article three of [the general municipal law] THIS CHAPTER; and limitations or restrictions on individual participating corporations [and], districts AND PUBLIC BENEFIT CORPORATIONS from providing or undertaking similar or competing facilities, services, activities, projects, or undertakings.

d. Purchasing and making of contracts subject to general laws applicable to municipal corporations [and], school districts AND PUBLIC BENEFIT CORPORATIONS.

e. Acquisition, ownership, custody, operation, maintenance, lease or sale of real or personal property.

f. Acceptance of gifts, grants or bequests.

g. Making of claims for federal or state aid payable to the individual or several participants on account of the joint service or a joint water, sewage or drainage project.

h. Custody by the fiscal officer of one participant of any or all moneys made available for expenditure for the joint service or a joint water, sewage or drainage project and authorization to such fiscal officer to make payments on audit of the auditing official or body of the participating corporation [or], district OR PUBLIC BENEFIT CORPORATION of which he is the fiscal officer.

i. Manner of responding for any liabilities that might be incurred in the operation of the joint service or a joint water, sewage or drainage project and insuring against any such liability.

j. Procedure for periodic review of the terms and conditions of the agreement, including those relating to its duration, extension or termination. The duration of an agreement hereinafter entered into, unless otherwise provided by law, may extend up to a maximum term of five years. With respect to agreements, the performance of which involves the issuance by the participants of indebtedness, either joint or several, the term of the agreement may extend up to a maximum period of time equal to the period of probable usefulness established by section 11.00 of the local finance law in connection with the object or purpose for which the indebtedness was issued. Nothing [herein] contained IN THIS SECTION shall prevent or prohibit either the renewal of agreements upon conclusion of the terms established, or amendments, modifications, clarifications, or cancellations of agreements prior to conclusion of the terms established.

k. Adjudication of disputes or disagreements, the effects of failure of participating corporations [or], districts OR PUBLIC BENEFIT CORPORATIONS to pay their shares of the costs and expenses and the rights of the other participants in such cases.

l. Other matters as are reasonably necessary and proper to effectuate and progress the joint service or a joint water, sewage or drainage project.

m. A municipality may contract with another municipality or with a municipal housing authority of another municipality, for the construction, maintenance, operation or management of a public housing project.

3. Municipal corporations are authorized as provided herein to adopt a mutual sharing plan in order to undertake or receive any joint service on behalf of or by another municipal corporation which has adopted a mutual sharing plan. Services provided pursuant to such mutual sharing

plan shall be subject to the alternative assignment of responsibility for certain expenses and liabilities relating to such joint service as provided by this subdivision.

a. A governing body may adopt a mutual sharing plan by local law, resolution or bylaw to confer the benefits of this section upon the employees of such municipal corporation and to be held liable for the costs incurred in the event of participation in a joint service with another municipal corporation which has adopted a mutual sharing plan. Such plan shall describe the officers or employees authorized to undertake or authorize receipt of a joint service pursuant to the mutual sharing plan, any limitations upon joint services which may be rendered or received pursuant to it, and how and when notice of joint services rendered or received pursuant to it shall be provided to the governing body.

b. Upon adoption of a mutual sharing plan, a municipal corporation may undertake or receive a joint service with another municipal corporation which has adopted a mutual sharing plan. The municipal corporation requesting the assistance of another municipal corporation pursuant to a mutual sharing plan shall be liable and responsible to the assisting municipal corporation for any loss of or damage to equipment employed in provision of such joint service or use of supplies upon provision of such joint service. Each municipal corporation shall be liable for salaries and other compensation due to their own employees for the time the employees are undertaking the joint service pursuant to a mutual sharing plan, however the municipal corporation receiving the service shall reimburse the assisting municipal corporation for actual and necessary expenses upon written notice of such claim.

c. The authority to adopt a mutual sharing plan and to undertake joint services pursuant to it shall be in addition to any other power or authority conferred on municipal corporations pursuant to this article or any other general or special law. A joint service may not be rendered pursuant to a mutual sharing plan where another agreement has been entered into pursuant to this section for such service between the assisting and receiving municipal corporations.

S 2. This act shall take effect immediately.