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

4451--B

2011-2012 Regular Sessions

I N S E N A T E

April 6, 2011

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Corporations, Authorities and Commissions in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, the general municipal law and the not-for-profit corporation law, in relation to the powers, duties and activities of the authority budget office and to clarify entities subject to the authority of that office; and to repeal subdivision 3 of section 2801 and section 2806 of the public authorities law relating thereto

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

Section 1. Subdivision 2 of section 2 of the public authorities law, as amended by chapter 257 of the laws of 2011, is amended to read as follows:

2. "local authority" shall mean (a) a public authority or public benefit corporation created by or existing under this chapter or any other law of the state of New York whose members do not hold a civil office of the state, are not appointed by the governor or are appointed by the governor specifically upon the recommendation of the local government or governments; (b) a not-for-profit corporation affiliated with, sponsored by, or created by [a] ONE OR MORE STATE, county, city, town or village [government] GOVERNMENTS OR LOCAL PUBLIC AUTHORITIES; (c) a local industrial developmental agency or authority or other local public benefit corporation; (d) an affiliate of such local authority; [or] (e) A TYPE C NOT-FOR-PROFIT CORPORATION, AS DEFINED IN SECTION TWO HUNDRED ONE OF THE NOT-FOR-PROFIT CORPORATION LAW THAT (I) SUPPORTS, MANAGES, MARKETS,

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

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FUNDS, OR IMPLEMENTS PROGRAMS AND PROJECTS, OR ACQUIRES PUBLIC PROPERTY IN THE PUBLIC INTEREST, FOR THE PURPOSE OF PROMOTING OR ACHIEVING ECONOMIC OR INDUSTRIAL DEVELOPMENT, JOB CREATION, OR JOB RETENTION; (II) RELIES IN WHOLE OR IN PART ON LOAN REPAYMENTS OR PROJECT REVENUE FOR ITS OPERATIONS; (III) HAS THE AUTHORITY TO ISSUE TAX EXEMPT DEBT; (IV) APPROVES OR MAKES RECOMMENDATIONS FOR THE APPROVAL OF PUBLIC FINANCIAL ASSISTANCE, INCLUDING PROVIDING LOANS FROM A REVOLVING LOAN FUND FINANCED, IN WHOLE OR IN PART, BY FEDERAL, STATE OR LOCAL GOVERNMENT FUNDS; OR (V) RELIES ON STATE OR LOCAL GOVERNMENT EMPLOYEES OR STAFF OF A LOCAL AUTHORITY FOR ADMINISTRATIVE OR OPERATIONAL SUPPORT; OR (F) a land bank corporation created pursuant to article sixteen of the not-for-profit corporation law.

S 2. Section 5 of the public authorities law, as added by chapter 506 of the laws of 2009, is amended to read as follows:

S 5. Director of the authorities budget office. The director of the authorities budget office shall be appointed by the governor, upon the advice and consent of the senate. The director shall hold office for a term of four years beginning on the date of confirmation. The salary of the director shall be established by the governor within the limit of funds available therefor; provided, however, such salary shall be no less than the salaries of certain state officers holding the positions indicated in paragraph (d) of subdivision one of section one hundred sixty-nine of the executive law. THE DIRECTOR MAY APPOINT EMPLOYEES OF THE AUTHORITIES BUDGET OFFICE AND PRESCRIBE THEIR POWERS AND DUTIES AND FIX THEIR COMPENSATION WITHIN THE AMOUNTS APPROPRIATED THEREFOR. The director may be removed by the governor only after notice and opportunity to be heard, and only for:

1. permanent disability;
2. inefficiency;
3. neglect of duty;
4. malfeasance;
5. a felony or conduct involving moral turpitude; or
6. breach of fiduciary duty.

S 3. Paragraphs (i) and (j) of subdivision 2 of section 6 of the public authorities law, as added by chapter 506 of the laws of 2009, are amended and three new paragraphs (k), (l) and (m) are added to read as follows:

(i) compel any authority which is deemed to be in non-compliance with this title and title one of this article or article nine of this chapter to submit to the authorities budget office a detailed explanation of such failure to comply; [and]

(j) commence a special proceeding in supreme court, when it does not receive from a state or local authority upon request information, books, records or other documentation necessary to perform its duties, seeking an order directing the production of the same[.];

(K) DETERMINE WHETHER ENTITIES OPERATING WITHIN NEW YORK STATE ARE STATE OR LOCAL AUTHORITIES AS SET FORTH IN SECTION TWO OF THIS ARTICLE;

(L) ASSESS, AFTER NOTICE, FINES OR OTHER FINANCIAL PENALTIES ON ANY STATE OR LOCAL AUTHORITY THAT (I) FAILS TO FILE ANY REPORT REQUIRED BY THE AUTHORITIES BUDGET OFFICE PURSUANT TO THIS CHAPTER, ON OR BEFORE THE DAY DESIGNATED FOR THE FILING THEREOF; (II) SUBMITS INACCURATE, INCOMPLETE, OR MISLEADING INFORMATION THEREIN; OR (III) INTENTIONALLY OR UNINTENTIONALLY FAILS TO COMPLY WITH ANY REQUIREMENT OR PROVISION OF THIS CHAPTER; PROVIDED THAT THE ASSESSMENT OF ANY FINES OR FINANCIAL PENALTIES SHALL BE IN ACCORDANCE WITH RULES OR REGULATIONS PROMULGATED BY THE AUTHORITIES BUDGET OFFICE; AND FURTHER PROVIDED THAT SUCH FINES

OR FINANCIAL PENALTIES SHALL BE FORFEITED TO THE PEOPLE OF THE STATE; AND FURTHER PROVIDED THAT SUCH FINES OR FINANCIAL PENALTIES SHALL NOT EXCEED ONE HUNDRED DOLLARS FOR EACH DAY DURING WHICH SUCH REPORT IS DELAYED OR WITHHELD, OR SUCH INACCURATE, INCOMPLETE OR MISLEADING INFORMATION IS NOT CORRECTED, CERTIFIED AND SUBMITTED, OR SUCH INTENTIONAL OR UNINTENTIONAL ACTS OF NONCOMPLIANCE ARE NOT CORRECTED, UNLESS THE TIME THEREFORE SHALL HAVE BEEN EXTENDED BY THE DIRECTOR OF THE AUTHORITIES BUDGET OFFICE FOR GOOD CAUSE SHOWN, IN HIS OR HER SOLE DISCRETION; AND

(M) REVIEW ANY CONTRACT, SUB-CONTRACT, OR FINANCIAL TRANSACTION THAT IS IN FURTHERANCE OF THE PUBLIC PURPOSE OR MISSION OF A STATE OR LOCAL AUTHORITY, OR FOR WORK PERFORMED, OR SERVICES RENDERED, TO OR ON BEHALF OF ONE OR MORE COUNTY, CITY, TOWN OR VILLAGE GOVERNMENTS OR STATE OR LOCAL AUTHORITIES IN FURTHERANCE OF THE PUBLIC PURPOSE OR MISSION OF SUCH GOVERNMENTS OR AUTHORITIES, AND TO REVIEW DOCUMENTS ASSOCIATED WITH SUCH CONTRACT OR FINANCIAL TRANSACTION.

S 4. The public authorities law is amended by adding a new section 8 to read as follows:

S 8. AUTHORITIES BUDGET OFFICE BOARD OF DIRECTORS. THERE IS HEREBY CREATED THE AUTHORITIES BUDGET OFFICE BOARD OF DIRECTORS WHICH SHALL CONSIST OF FIVE MEMBERS. ONE MEMBER EACH SHALL BE APPOINTED BY THE GOVERNOR, ATTORNEY GENERAL, STATE COMPTROLLER, SPEAKER OF THE ASSEMBLY AND SENATE MAJORITY LEADER. EACH DIRECTOR SHALL SERVE FOR A TERM OF FOUR YEARS. THE BOARD SHALL ELECT THE CHAIRMAN OF THE BOARD FROM ITS OWN MEMBERS. THE BOARD SHALL ESTABLISH ITS OWN BYLAWS. THE FUNCTIONS OF THE BOARD SHALL BE TO:

(A) OVERSEE THE CONDUCT OF THE AUTHORITIES BUDGET OFFICE AND EVALUATE WHETHER THE AUTHORITIES BUDGET OFFICE IS BEING PROPERLY MANAGED AND MEETING ITS STATUTORY RESPONSIBILITY TO ACT IN AN INDEPENDENT AND EFFECTIVE MANNER;

(B) INSTRUCT, WHERE APPROPRIATE, THE DIRECTOR AND SENIOR OFFICERS OF THE AUTHORITIES BUDGET OFFICE, AND REVIEW THEIR ACTIONS;

(C) PROVIDE ADVICE AND COUNSEL TO THE DIRECTOR AND SENIOR OFFICERS;

(D) REVIEW AND APPROVE MAJOR POLICY AND ADMINISTRATIVE DECISIONS RESPECTING THE OPERATIONS AND RESPONSIBILITIES OF THE AUTHORITIES BUDGET OFFICE;

(E) REVIEW AND APPROVE THE FINANCIAL AND OPERATING DISCLOSURE STATEMENTS, BUDGETARY SUBMISSIONS AND REPORTS OF THE AUTHORITIES BUDGET OFFICE;

(F) REPORT AT THE END OF EACH SIX MONTH PERIOD BEGINNING ON JUNE FIRST, TWO THOUSAND TWELVE TO THE GOVERNOR AND THE MAJORITY AND MINORITY LEADERS OF THE SENATE AND ASSEMBLY, ON ITS OVERSIGHT RESPONSIBILITIES AS PROVIDED IN PARAGRAPHS (A) THROUGH (E) OF THIS SECTION; AND

(G) IN THE EVENT OF A VACANCY, RECOMMEND TO THE GOVERNOR A LIST OF THREE OR MORE CANDIDATES FOR THE OFFICE OF DIRECTOR. THE GOVERNOR SHALL SELECT HIS NOMINEE FROM SUCH LIST.

S 5. Paragraphs (a) and (b) of subdivision 1 and subdivision 2 of section 2800 of the public authorities law, as amended by chapter 506 of the laws of 2009, are amended to read as follows:

(a) For the purpose of furnishing the state with systematic information regarding the status and the activities of public authorities, every state authority continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chairman and ranking minority member of the senate finance committee, the chairman and ranking minority member of the assembly ways and means committee, the state comptroller, and the authorities budget office, within ninety days after the end of its fiscal year, a complete

and detailed report or reports setting forth IN A MANNER AND FORM TO BE DETERMINED BY THE AUTHORITIES BUDGET OFFICE: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grant and subsidy programs, (iii) operating and financial risks, (iv) current ratings, if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule, [in addition to the report described in section twenty-eight hundred six of this title,] that shall include, by position, title and name of the person holding such position or title, the salary, compensation, AND allowance [and/or] PAID TO SUCH PERSON, AND benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; [(5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required under subparagraph five of this paragraph;] (6) the projects undertaken by such authority during the past year; (7) a listing and description[, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article] of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser, LESSEE, LESSOR or seller for all such property sold, LEASED or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) [a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, and (iv) number of employees; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15)] its board performance evaluations; provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; [(16)] (11) a description of the total amounts of assets, services or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds

fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and [(17)] (12) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no hospital need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each state authority shall make accessible to the public, via its official or shared internet web site, (I) documentation pertaining to its mission[,] AND current activities[,]; (II) ITS most recent annual REPORT AND financial [reports] STATEMENTS, AND current [year] budget [and] REPORTS; (III) its most recent independent audit report AND ANY OTHER REPORT PROVIDED TO THE AUTHORITIES BUDGET OFFICE unless such information is covered by subdivision two of section eighty-seven of the public officers law; (IV) BIOGRAPHICAL INFORMATION, NOT INCLUDING CONFIDENTIAL PERSONAL INFORMATION, PERTAINING TO THE PROFESSIONAL QUALIFICATIONS AND EXPERTISE FOR ALL DIRECTORS AND OFFICERS; (V) A COPY OF THE LEGISLATION THAT FORMS THE STATUTORY BASIS OF THE AUTHORITY; (VI) A DESCRIPTION OF THE AUTHORITY AND ITS BOARD STRUCTURE, INCLUDING (A) NAMES OF COMMITTEES AND COMMITTEE MEMBERS, (B) MINUTES OF BOARD MEETINGS, (C) DESCRIPTIONS OF MAJOR AUTHORITY UNITS AND SUBSIDIARIES, (D) NUMBER OF EMPLOYEES AND STAFF; (VII) AN ORGANIZATION CHART; (VIII) ITS CHARTER, IF ANY, AND A COPY OF ITS CURRENT BY-LAWS; (IX) A LISTING OF MATERIAL CHANGES IN OPERATIONS AND PROGRAMS DURING THE REPORTING YEAR; AND (X) ANY OTHER INFORMATION AS MAY BE REQUIRED BY THE AUTHORITIES BUDGET OFFICE.

2. Local authorities. (a) Every local authority[, continued or created by this chapter or any other chapter of the laws of the state of New York] shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, within ninety days after the end of its fiscal year, a complete and detailed report or reports setting forth IN A MANNER AND FORM TO BE DETERMINED BY THE AUTHORITIES BUDGET OFFICE: (1) its operations and accomplishments; (2) its financial reports, including (i) audited financials in accordance with all applicable regulations and following generally accepted accounting principles as defined in subdivision ten of section two of the state finance law, (ii) grants and subsidy programs, (iii) operating and financial risks, (iv) current ratings if any, of its bonds issued by recognized municipal bond rating agencies and notice of changes in such ratings, and (v) long-term liabilities, including leases and employee benefit plans; (3) its mission statement and measurements including its most recent measurement report; (4) a schedule of its bonds and notes outstanding at the end of its fiscal year, together with a statement of the amounts redeemed and incurred during such fiscal year as part of a schedule of debt issuance that includes the date of issuance, term, amount, interest rate and means of repayment. Additionally, the debt schedule shall also include all refinancings, calls, refundings, defeasements and interest rate exchange or other such agreements, and for any debt issued during the reporting year, the schedule shall also include a detailed list of costs of issuance for such debt; (5) a compensation schedule [in addition to the report described in section twenty-eight hundred six of this title] that shall include, by position,

title and name of the person holding such position or title, the salary, compensation, AND allowance [and/or] PAID TO SUCH PERSON, benefits provided to any officer, director or employee in a decision making or managerial position of such authority whose salary is in excess of one hundred thousand dollars; [(5-a) biographical information, not including confidential personal information, for all directors and officers and employees for whom salary reporting is required under subparagraph five of this paragraph;] (6) the projects undertaken by such authority during the past year; (7) a listing and description[, in addition to the report required by paragraph a of subdivision three of section twenty-eight hundred ninety-six of this article] of all real property of such authority having an estimated fair market value in excess of fifteen thousand dollars that the authority acquires or disposes of during such period. The report shall contain the price received or paid by the authority and the name of the purchaser, LESSEE, LESSOR or seller for all such property sold, LEASED or bought by the authority during such period; (8) such authority's code of ethics; (9) an assessment of the effectiveness of its internal control structure and procedures; (10) [a copy of the legislation that forms the statutory basis of the authority; (11) a description of the authority and its board structure, including (i) names of committees and committee members, (ii) lists of board meetings and attendance, (iii) descriptions of major authority units, subsidiaries, (iv) number of employees, and (v) organizational chart; (12) its charter, if any, and by-laws; (13) a listing of material changes in operations and programs during the reporting year; (14) at a minimum a four-year financial plan, including (i) a current and projected capital budget, and (ii) an operating budget report, including an actual versus estimated budget, with an analysis and measurement of financial and operating performance; (15)] its board performance evaluations provided, however, that such evaluations shall not be subject to disclosure under article six of the public officers law; [(16)] (11) a description of the total amounts of assets, services or both assets and services bought or sold without competitive bidding, including (i) the nature of those assets and services, (ii) the names of the counterparties, and (iii) where the contract price for assets purchased exceeds fair market value, or where the contract price for assets sold is less than fair market value, a detailed explanation of the justification for making the purchase or sale without competitive bidding, and a certification by the chief executive officer and chief financial officer of the public authority that they have reviewed the terms of such purchase or sale and determined that it complies with applicable law and procurement guidelines; and [(17)] (12) a description of any material pending litigation in which the authority is involved as a party during the reporting year, except that no provider of medical services need disclose information about pending malpractice claims beyond the existence of such claims.

(b) Each local authority shall make accessible to the public, via its official or shared internet web site, (I) documentation pertaining to its mission[,] AND current activities[,]; (II) ITS most recent annual REPORT AND financial [reports] STATEMENTS, AND current [year] budget [and] REPORTS; (III) its most recent independent audit report AND ANY OTHER REPORT PROVIDED TO THE AUTHORITIES BUDGET OFFICE unless such information is covered by subdivision two of section eighty-seven of the public officers law; (IV) BIOGRAPHICAL INFORMATION, NOT INCLUDING CONFIDENTIAL PERSONAL INFORMATION, PERTAINING TO THE PROFESSIONAL QUALIFICATIONS AND EXPERTISE FOR ALL DIRECTORS AND OFFICERS; (V) A COPY OF THE LEGISLATION THAT FORMS THE STATUTORY BASIS OF THE AUTHORITY; (VI) A

DESCRIPTION OF THE AUTHORITY AND ITS BOARD STRUCTURE, INCLUDING (A) NAMES OF COMMITTEES AND COMMITTEE MEMBERS, (B) MINUTES OF BOARD MEETINGS, (C) DESCRIPTIONS OF MAJOR AUTHORITY UNITS AND SUBSIDIARIES, (D) NUMBER OF EMPLOYEES AND STAFF; (VII) AN ORGANIZATION CHART; (VIII) ITS CHARTER, IF ANY, AND A COPY OF ITS CURRENT BY-LAWS; (IX) A LISTING OF MATERIAL CHANGES IN OPERATIONS AND PROGRAMS DURING THE REPORTING YEAR; AND (X) ANY OTHER INFORMATION AS MAY BE REQUIRED BY THE AUTHORITIES BUDGET OFFICE.

S 6. Subdivision 3 of section 2801 of the public authorities law is REPEALED and subdivisions 1 and 2, as amended by chapter 506 of the laws of 2009, are amended to read as follows:

1. State authorities. Every state authority or commission heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York shall submit to the governor, the chair and ranking minority member of the senate finance committee, the chair and ranking minority member of the assembly ways and means committee and the authorities budget office, for their information, annually [not more than one hundred twenty days and] not less than [ninety] THIRTY days before the commencement of its fiscal year, in the form [submitted to its members or trustees,] DETERMINED BY THE AUTHORITIES BUDGET OFFICE, AN ADOPTED BUDGET PLAN OF AT LEAST SIX YEARS AND budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year [and], the current fiscal year, AND THE NEXT THREE FISCAL YEARS, and the actual receipts and expenditures for the last completed fiscal year.

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority [heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York] shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or governments and the authorities budget office for their information, annually [not more than ninety days and not less than sixty] THIRTY days before the commencement of its fiscal year, in the form [submitted to its members or trustees,] DETERMINED BY THE AUTHORITIES BUDGET OFFICE, AN ADOPTED BUDGET PLAN OF AT LEAST SIX YEARS AND budget information on operations and capital construction setting forth the estimated receipts and expenditures for the next fiscal year [and], the current fiscal year, and THE NEXT THREE FISCAL YEARS, AND the actual receipts and expenditures for the last completed fiscal year.

S 7. Subdivisions 2 and 7 of section 2802 of the public authorities law, subdivision 2 as amended by chapter 506 of the laws of 2009 and subdivision 7 as added by chapter 766 of the laws of 2005, are amended to read as follows:

2. Local authorities. For the local authority fiscal year ending on or after December thirty-first, two thousand seven and annually thereafter, every local authority [heretofore or hereafter continued or created by this chapter or any other chapter of the laws of the state of New York] shall submit to the chief executive officer, the chief fiscal officer, the chairperson of the legislative body of the local government or local governments and the authorities budget office, together with the report described in section twenty-eight hundred of this title, a copy of the annual independent audit report, performed by a certified public accounting firm in accordance with generally accepted auditing standards as defined in subdivision eleven of section two of the state finance law, and management letter and any other external examination of the

books and accounts of such authority other than copies of the reports of any examinations made by the state comptroller.

7. Notwithstanding any provision of law to the contrary, a [public] STATE OR LOCAL authority may exempt information from disclosure or report, if the counsel of such authority deems that such information is covered by subdivision two of section eighty-seven of the public officers law.

S 8. Section 2806 of the public authorities law is REPEALED.

S 9. The opening paragraph of subdivision 2 of section 2825 of the public authorities law, as amended by chapter 174 of the laws of 2010, is amended to read as follows:

Except for members who serve as members by virtue of holding a civil office of the state OR MUNICIPAL GOVERNMENT, the majority of the remaining members of the governing body of every state or local authority shall be independent members; provided, however, that this provision shall apply to appointments made on or after the effective date of chapter seven hundred sixty-six of the laws of two thousand five which added this subdivision. The official or officials having the authority to appoint or remove such remaining members shall take such actions as may be necessary to satisfy this requirement and further, shall consider the prospective diversity of the members of a state authority when making their determinations to appoint any member. For the purposes of this section, an independent member is one who:

S 10. Subdivisions 1 and 8 of section 2879 of the public authorities law, as amended by chapter 564 of the laws of 1988, paragraph (a) of subdivision 8 as amended and such subdivision as renumbered by chapter 844 of the laws of 1992, are amended to read as follows:

1. Every [public] STATE AND LOCAL authority [and public benefit corporation, a majority of the members of which consist of persons either appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, (such entities to be hereinafter in this section referred to as "corporation")] shall adopt by resolution comprehensive guidelines which detail the corporation's operative policy and instructions regarding the use, awarding, monitoring and reporting of procurement contracts. Guidelines approved by the corporation shall be annually reviewed and approved by the corporation.

8. (a) Each [corporation] STATE AND LOCAL AUTHORITY shall [annually] submit WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR its report on procurement contracts to the [division of the budget] AUTHORITIES BUDGET OFFICE and copies thereof to the department of audit and control, the department of economic development, the senate finance committee and the assembly ways and means committee.

(b) Each corporation shall make available to the public copies of its report on procurement contracts upon reasonable request therefor.

S 11. Section 2827 of the public authorities law, as amended by chapter 506 of the laws of 2009, is amended to read as follows:

S 2827. Removal of authority members. Except as otherwise provided in this chapter, every member of every authority or commission heretofore or hereafter continued or created by this chapter, except ex-officio members, that is, members whose membership results by virtue of their incumbency of a public office, shall be removable by the public officer or public body which is empowered by this chapter to appoint such authority or commission member, for inefficiency, breach of fiduciary duty, neglect of duty or misconduct in office, provided, however, that such member shall be given a copy of the charges against him and an

opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days' notice. IF THE AUTHORITIES BUDGET OFFICE RECOMMENDS TO THE PUBLIC OFFICER OR PUBLIC BODY WHICH IS EMPOWERED TO APPOINT OFFICERS OR DIRECTORS OF A STATE OR LOCAL AUTHORITY THE SUSPENSION OR DISMISSAL OF SUCH OFFICERS OR DIRECTORS, THE PUBLIC OFFICER OR PUBLIC BODY SHALL NOTIFY THE AUTHORITIES BUDGET OFFICE IN WRITING WITHIN THIRTY DAYS OF RECEIVING SUCH A RECOMMENDATION WHETHER OR NOT SUCH RECOMMENDATION WILL BE ACCEPTED.

S 12. Subdivision 3 of section 2896 of the public authorities law, as amended by chapter 506 of the laws of 2009, is amended to read as follows:

3. a. Each [public] STATE AND LOCAL authority shall [publish, not less frequently than annually] PREPARE WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR AS PART OF THE ANNUAL REPORT PURSUANT TO SECTION TWENTY-EIGHT HUNDRED OF THIS ARTICLE, a report listing all real property of the public authority. Such report shall include a list and full description of all real and personal property disposed of during such period. The report shall contain the price received by the public authority and the name of the purchaser for all such property sold by the public authority during such period AND SUCH OTHER INFORMATION AS REQUIRED BY THE AUTHORITIES BUDGET OFFICE.

b. The [public] STATE OR LOCAL authority shall deliver copies of such report to the comptroller, the director of the budget, the commissioner of general services, the legislature and the authorities budget office.

S 13. Paragraphs (a) and (b) of subdivision 7 of section 2925 of the public authorities law, as added by chapter 838 of the laws of 1983, are amended to read as follows:

(a) Each corporation, a majority of the members of which consist of persons appointed by the governor or who serve as members by virtue of holding a civil office of the state, or a combination thereof, shall [annually] submit WITHIN NINETY DAYS OF THE END OF ITS FISCAL YEAR its investment report to the [division of the budget] AUTHORITIES BUDGET OFFICE and copies thereof to the department of audit and control, the senate finance committee and the assembly ways and means committee.

(b) Each corporation, other than a corporation included under paragraph (a) of this subdivision, shall annually submit its investment report to the chief executive officer and chief fiscal officer of each municipality for the benefit of which it was created and to the department of audit and control AND THE AUTHORITIES BUDGET OFFICE.

S 14. Subdivision 2 of section 561-a of the general municipal law, as added by chapter 681 of the laws of 1963, is amended to read as follows:

2. Within [sixty] NINETY days after the close of the fiscal year, an agency shall submit an annual report of its financial condition to the commissioner, THE AUTHORITIES BUDGET OFFICE and to the state comptroller. The report shall be in such form as the comptroller shall require. The commissioner or the comptroller OR THE DIRECTOR OF THE AUTHORITIES BUDGET OFFICE may require additional information from the agency or any officer thereof at any time.

S 15. Section 859 of the general municipal law, as added by chapter 692 of the laws of 1989, paragraph (b), the opening paragraph and subparagraph (v) of paragraph (e) of subdivision 1 as amended by chapter 357 of the laws of 1993, paragraph (e) of subdivision 1 and subdivision 3 as added and subdivision 2 as amended by chapter 356 of the laws of 1993 and paragraph (f) of subdivision 1 as added by section 28 of part A3 of chapter 62 of the laws of 2003, is amended to read as follows:

S 859. Financial records. 1. (a) Each agency shall maintain books and records in such form as may be prescribed by the state comptroller.

(b) Within ninety days following the close of its fiscal year, each agency or authority shall prepare a financial statement for that fiscal year in such form as may be prescribed by THE AUTHORITIES BUDGET OFFICE AND the state comptroller. Such statement shall be audited within such ninety day period by an independent certified public accountant in accordance with government accounting standards established by the United States general accounting office. The audited financial statement shall include supplemental schedules listing all straight-lease transactions and bonds and notes issued, outstanding or retired during the applicable accounting period whether or not such bonds, notes or transactions are considered obligations of the agency. For each issue of bonds or notes such schedules shall provide the name of each project financed with proceeds of each issue, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each bond or note was issued, date of issue, interest rate at issuance and if variable the range of interest rates applicable, maturity date, federal tax status of each issue, and an estimate of the number of jobs created and retained by each project. For each straight-lease transaction, such schedules shall provide the name of each project, and whether the project occupant is a not-for-profit corporation, the name and address of each owner of each project, the estimated amount of tax exemptions authorized for each project, the purpose for which each transaction was made, the method of financial assistance utilized by the project, other than the tax exemptions claimed by the project and an estimate of the number of jobs created and retained by each project.

(c) Within [thirty] NINETY days after [completion] THE END OF THE FISCAL YEAR, a copy of the audited financial statement shall be transmitted to the commissioner of the department of economic development, THE AUTHORITIES BUDGET OFFICE, the state comptroller and the governing body of the municipality for whose benefit the agency was created.

(d) [An agency with no bonds or notes issued or outstanding and no projects during the applicable accounting period may apply to the state comptroller for a waiver of the required audited financial statement. Application shall be made on such form as the comptroller may prescribe.

(e)] If an agency or authority shall fail to file or substantially complete, as determined by the state comptroller, the financial statement required by this section, the state comptroller shall provide notice to the agency or authority. The notice shall state the following:

(i) that the failure to file a financial statement as required is a violation of this section, or in the case of an insufficient financial statement, the manner in which the financial statement submitted is deficient;

(ii) that the agency or authority has thirty days to comply with this section or provide an adequate written explanation to the comptroller of the agency's or authority's reasons for the inability to comply; and

(iii) that the agency's or authority's failure to provide either the required financial statement or an adequate explanation will result in the notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's noncompliance with this section. Where such agency or authority has failed to file the required statement, the comptroller shall additionally notify the agency or authority that continued failure to file

the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(iv) If an agency or authority after thirty days has failed to file the required statement or the explanation in the manner required by subparagraph (i) of this paragraph, or provides an insufficient explanation, the comptroller shall notify the chief executive officer of the municipality for whose benefit the agency or authority was created and the agency of the agency's or authority's noncompliance with this section. Such notice from the state comptroller shall further delineate in what respect the agency or authority has failed to comply with this section. If the agency or authority has failed to file the required statement, the notice shall additionally state that continued failure to file the required statement may result in loss of the agency's or authority's authority to provide exemptions from state taxes.

(v) If, thirty days after notification of the chief executive officer of the municipality for whose benefit the agency or authority was created of the agency's or authority's noncompliance, the agency or authority fails to file the required statement, the comptroller shall notify the chief executive officer of the municipality for whose benefit that agency or authority was created and the agency or authority that if such report is not provided within sixty days, that the agency or authority will no longer be authorized to provide exemptions from state taxes.

(vi) If, sixty days after the notification required by subparagraph (v) of this paragraph, the comptroller has not received the required statement, the agency or authority shall not offer financial assistance which provides exemptions from state taxes until such financial statement is filed and the comptroller shall so notify the agency or authority and the chief executive officer of the municipality for whose benefit the agency was created. Provided, however, that nothing contained in this paragraph shall be deemed to modify the terms of any existing agreements. THE COMPTROLLER SHALL PROVIDE THE AUTHORITIES BUDGET OFFICE WITH NOTIFICATION THAT SUCH AGENCY OR AUTHORITY IS PROHIBITED FROM OFFERING FINANCIAL ASSISTANCE THAT PROVIDES EXEMPTIONS FROM STATE TAXES.

[(f)] (E) Within thirty days after completion, a copy of an audited financial statement which contains transactions of or bonds or notes of civic facilities as defined in paragraph (b) of THE FORMER subdivision thirteen of section eight hundred fifty-four of this article, shall be transmitted by the agency to the commissioner of health, the chair of the senate finance committee, the chair of the assembly ways and means committee, the chair of the senate health committee and the chair of the assembly health committee.

2. On or before September first of each year, the commissioner of the department of economic development shall prepare and submit to the governor, speaker of the assembly, majority leader of the senate, THE DIRECTOR OF THE AUTHORITIES BUDGET OFFICE, and the state comptroller, a report setting forth a summary of the significant trends in operations and financing by agencies and authorities; departures from acceptable practices by agencies and authorities; a compilation by type of the bonds and notes outstanding; a compilation of all outstanding straight-lease transactions; an estimate of the total number of jobs created and retained by agency or authority projects; and any other information which in the opinion of the commissioner bears upon the discharge of the statutory functions of agencies and authorities.

3. On or before April first, nineteen hundred ninety-six, the commissioner shall submit to the director of the division of the budget, THE

DIRECTOR OF THE AUTHORITIES BUDGET OFFICE, the temporary president of the senate, the speaker of the assembly, the chairman of the senate finance committee, the chairman of the assembly ways and means committee, the chairman of the senate local government committee, the chairman of the senate committee on commerce, economic development and small business, the chairman of the assembly committee on commerce, industry and economic development, the chairman of the assembly local governments committee [and], the chairman of the assembly real property taxation committee, THE CHAIR OF THE SENATE COMMITTEE ON CORPORATIONS, AUTHORITIES AND COMMISSIONS, AND THE CHAIR OF THE ASSEMBLY COMMITTEE ON CORPORATIONS, AUTHORITIES AND COMMISSIONS an evaluation of the activities of industrial development agencies and authorities in the state prepared by an entity independent of the department. Such evaluation shall identify the effect of agencies and authorities on: (a) job creation and retention in the state, including the types of jobs created and retained; (b) the value of tax exemptions provided by such agencies and authorities; (c) the value of payments received in lieu of taxes received by municipalities and school districts as a result of projects sponsored by such entities; (d) a summary of the types of projects that received financial assistance; (e) a summary of the types of financial assistance provided by the agencies and authorities; (f) a summary of criteria for evaluation of projects used by agencies and authorities; (g) a summary of tax exemption policies of agencies and authorities; and (h) such other factors as may be relevant to an assessment of the performance of such agencies and authorities in creating and retaining job opportunities for residents of the state. Such evaluation shall also assess the process by which agencies and authorities grant exemptions from state taxes and make recommendations for the most efficient and effective procedures for the use of such exemptions. Such evaluation shall further include any recommendations for changes in laws governing the operations of industrial development agencies and authorities which would enhance the creation and retention of jobs in the state.

S 16. Paragraph (a) of section 1411 of the not-for-profit corporation law, as amended by chapter 847 of the laws of 1970, is amended to read as follows:

(a) Purposes.

This section shall provide an additional and alternate method of incorporation or reincorporation of not-for-profit corporations for any of the purposes set forth in this paragraph and shall not be deemed to alter, impair or diminish the purposes, rights, powers or privileges of any corporation heretofore or hereafter incorporated under this section or under the stock or business corporation laws. Corporations may be incorporated or reincorporated under this section as not-for-profit local development corporations operated for the exclusively charitable or public purposes of relieving and reducing unemployment, promoting and providing for additional and maximum employment, bettering and maintaining job opportunities, instructing or training individuals to improve or develop their capabilities for such jobs, carrying on scientific research for the purpose of aiding a community or geographical area by attracting new industry to the community or area or by encouraging the development of, or retention of, an industry in the community or area, and lessening the burdens of government and acting in the public interest, and any one or more counties, cities, towns or villages of the state, or any combination thereof, or the New York job development authority in exercising its power under the public authorities law to encourage the organization of local development corporations, may cause

such corporations to be incorporated by public officers or private individuals or reincorporated upon compliance with the requirements of this section, and it is hereby found, determined and declared that in carrying out said purposes and in exercising the powers conferred by paragraph [(b)] (C) OF THIS SECTION such corporations will be performing an essential governmental function. A LOCAL DEVELOPMENT CORPORATION INCORPORATED OR REINCORPORATED FOR THE PURPOSES OF THIS PARAGRAPH THAT (I) SUPPORTS, MANAGES, MARKETS, FUNDS, OR IMPLEMENTS PROGRAMS AND PROJECTS, OR ACQUIRES PUBLIC PROPERTY IN THE PUBLIC INTEREST, FOR THE PURPOSE OF PROMOTING OR ACHIEVING ECONOMIC OR INDUSTRIAL DEVELOPMENT, JOB CREATION, OR JOB RETENTION; (II) RELIES IN WHOLE OR IN PART ON LOAN REPAYMENTS OR PROJECT REVENUE FOR ITS OPERATIONS; (III) HAS THE AUTHORITY TO ISSUE TAX EXEMPT DEBT; (IV) APPROVES OR MAKES RECOMMENDATIONS FOR THE APPROVAL OF PUBLIC FINANCIAL ASSISTANCE, INCLUDING PROVIDING LOANS FROM A REVOLVING LOAN FUND FINANCED, IN WHOLE OR IN PART, BY FEDERAL, STATE OR LOCAL GOVERNMENT FUNDS; (V) RELIES ON STATE OR LOCAL GOVERNMENT EMPLOYEES OR STAFF OF A LOCAL AUTHORITY FOR ADMINISTRATIVE OR OPERATIONAL SUPPORT; OR (VI) IS AN AFFILIATE OF A LOCAL AUTHORITY SHALL BE DEFINED AS A LOCAL AUTHORITY FOR PURPOSES OF COMPLYING WITH THE REQUIREMENTS OF THE PUBLIC AUTHORITIES LAW.

S 17. This act shall take effect immediately.