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

942

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:

Section 1. Article 10-D of the public authorities law is amended by adding a new title 1-A to read as follows:

TITLE 1-A

METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORITY

SECTION 3750. SHORT TITLE.
3751. DEFINITIONS.
3752. METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORITY.
3753. ADMINISTRATION OF THE AUTHORITY.
3754. GENERAL POWERS OF THE AUTHORITY.
3755. RESOURCES OF THE AUTHORITY.
3756. TAX EXEMPTION AND TAX CONTRACT BY THE STATE.
3757. ACTIONS AGAINST THE AUTHORITY.
3758. AUDITS.
3759. ASSISTANCE TO THE AUTHORITY; EMPLOYEES OF THE AUTHORITY.
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3761. MONITORING AND REVIEW.
3762. CONTROL PERIOD.
3763. MISCELLANEOUS PROVISIONS.
3764. EFFECT OF INCONSISTENT PROVISIONS.
3765. SEVERABILITY; CONSTRUCTION.

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

LBD04428-01-1

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

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

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

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

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

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

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

6. "METROPOLITAN TRANSPORTATION AUTHORITY" OR "MTA" MEANS THE CORPORATION ESTABLISHED BY SECTION TWELVE HUNDRED SIXTY-THREE OF THE PUBLIC AUTHORITIES LAW.

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

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

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

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

11. "PUBLIC CORPORATION" MEANS AND INCLUDES THE METROPOLITAN TRANSPORTATION AUTHORITY, THE STATE AND EVERY PUBLIC CORPORATION AS DEFINED IN THE GENERAL CONSTRUCTION LAW.

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

S 3752. METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORITY. 1. THERE IS HEREBY CREATED THE METROPOLITAN TRANSPORTATION AUTHORITY INTERIM FINANCE AUTHORITY. THE AUTHORITY SHALL BE A CORPORATE GOVERNMENTAL AGENCY AND INSTRUMENTALITY OF THE STATE CONSTITUTING A PUBLIC BENEFIT CORPORATION.

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

S 3753. ADMINISTRATION OF THE AUTHORITY. 1. THE AUTHORITY SHALL BE ADMINISTERED BY SEVEN DIRECTORS. OF THE SEVEN DIRECTORS, TWO SHALL BE APPOINTED BY THE GOVERNOR, ONE SHALL BE APPOINTED BY THE MAJORITY LEADER OF THE SENATE, ONE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY, ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE SENATE, ONE SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY AND ONE SHALL BE APPOINTED BY THE STATE COMPTROLLER. EACH DIRECTOR SHALL BE APPOINTED FOR A TERM OF FOUR YEARS, PROVIDED HOWEVER, THAT THE DIRECTORS FIRST APPOINTED BY THE GOVERNOR SHALL SERVE FOR A TERM ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, AND THE FIVE OTHER DIRECTORS FIRST APPOINTED SHALL SERVE FOR THE FOLLOWING TERMS: THE DIRECTORS FIRST APPOINTED BY THE MAJORITY LEADER OF THE SENATE, THE SPEAKER OF THE STATE ASSEMBLY AND THE STATE COMPTROLLER SHALL SERVE FOR A TERM ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN AND DIRECTORS FIRST APPOINTED BY THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF THE ASSEMBLY SHALL SERVE FOR A TERM ENDING ON DECEMBER THIRTY-FIRST, TWO THOUSAND SEVENTEEN. EACH DIRECTOR SHALL HOLD OFFICE UNTIL HIS OR HER SUCCESSOR

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

2. THE GOVERNOR SHALL DESIGNATE A CHAIRPERSON AND A VICE-CHAIRPERSON FROM AMONG THE DIRECTORS. THE CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF THE DIRECTORS AND SHALL HAVE SUCH OTHER DUTIES AS THE DIRECTORS MAY PRESCRIBE. THE VICE-CHAIRPERSON SHALL PRESIDE OVER ALL MEETINGS OF THE DIRECTORS IN THE ABSENCE OF THE CHAIRPERSON AND SHALL HAVE SUCH OTHER DUTIES AS THE DIRECTORS MAY PRESCRIBE.

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

4. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF ANY GENERAL, SPECIAL OR LOCAL LAW, ORDINANCE, RESOLUTION OR CHARTER, NO OFFICER, MEMBER OR EMPLOYEE OF THE STATE, ANY CITY, COUNTY, TOWN OR VILLAGE, ANY GOVERNMENTAL ENTITY OPERATING ANY PUBLIC SCHOOL OR COLLEGE, ANY SCHOOL DISTRICT OR ANY OTHER PUBLIC AGENCY OR INSTRUMENTALITY WHICH EXERCISES GOVERNMENTAL POWERS UNDER THE LAWS OF THE STATE, SHALL FORFEIT HIS OR HER OFFICE OR EMPLOYMENT BY REASON OF HIS OR HER ACCEPTANCE OF APPOINTMENT AS A DIRECTOR, OFFICER OR EMPLOYEE OF THE AUTHORITY, NOR SHALL SERVICE AS SUCH DIRECTOR, OFFICER OR EMPLOYEE OF THE AUTHORITY BE DEEMED INCOMPATIBLE OR IN CONFLICT WITH SUCH OFFICE OR EMPLOYMENT.

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

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

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

1. TO SUE AND BE SUED;

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

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

4. TO MAKE AND EXECUTE CONTRACTS AND ALL OTHER INSTRUMENTS OR AGREEMENTS NECESSARY OR CONVENIENT TO CARRY OUT ANY POWERS AND FUNCTIONS EXPRESSLY GIVEN IN THIS TITLE;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. CONDUCT MEETINGS AT LEAST ANNUALLY;

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

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

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

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

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

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

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

2. IN CARRYING OUT THE PURPOSES OF THIS TITLE DURING ANY CONTROL PERIOD:

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

TO THE FINANCIAL PLAN, INCLUDING BUT NOT LIMITED TO THE REVENUE ESTIMATES CONTAINED THEREIN.

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

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

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

(I) WITHIN TWENTY DAYS FROM THE COMMENCEMENT OF A CONTROL PERIOD, THE CHIEF EXECUTIVE OFFICER SHALL PRESENT TO THE AUTHORITY PROPOSED GUIDELINES RESPECTING THE CATEGORIES AND TYPES OF CONTRACTS AND OTHER OBLIGATIONS REQUIRED TO BE REVIEWED BY THE AUTHORITY PURSUANT TO THIS SUBDIVISION. WITHIN THIRTY DAYS FROM THE COMMENCEMENT OF A CONTROL PERIOD, THE AUTHORITY SHALL APPROVE OR MODIFY AND APPROVE SUCH PROPOSED GUIDELINES OR PROMULGATE ITS OWN IN THE EVENT THAT SUCH PROPOSED GUIDELINES ARE NOT SUBMITTED TO IT WITHIN THE TWENTY DAYS AS PROVIDED FOR HEREIN. SUCH GUIDELINES MAY THEREAFTER BE MODIFIED BY THE AUTHORITY FROM TIME TO TIME ON NOT LESS THAN THIRTY DAYS' NOTICE TO THE CHIEF EXECUTIVE OFFICER AND THE CHIEF EXECUTIVE OFFICER MAY FROM TIME TO TIME PROPOSE MODIFICATIONS TO THE AUTHORITY. UNLESS EXPRESSLY DISAPPROVED OR MODIFIED BY THE AUTHORITY WITHIN THIRTY DAYS (OR SUCH ADDITIONAL TIME, NOT EXCEEDING THIRTY DAYS, AS THE AUTHORITY SHALL HAVE NOTIFIED THE MTA THAT IT REQUIRES TO COMPLETE ITS REVIEW AND ANALYSIS) FROM THE DATE OF SUBMISSION BY THE CHIEF EXECUTIVE OFFICER, ANY SUCH PROPOSED GUIDELINES OR MODIFICATIONS SHALL BE DEEMED APPROVED BY THE AUTHORITY;

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

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

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

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

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

(F) THE AUTHORITY SHALL ISSUE, TO THE APPROPRIATE OFFICIAL OF THE MTA, SUCH ORDERS AS IT DEEMS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS TITLE, INCLUDING, BUT NOT LIMITED TO, TIMELY AND SATISFACTORY IMPLEMENTATION OF AN APPROVED FINANCIAL PLAN. ANY ORDER SO ISSUED SHALL BE BINDING UPON THE OFFICIAL TO WHOM IT WAS ISSUED AND FAILURE TO COMPLY WITH SUCH ORDER SHALL SUBJECT THE OFFICIAL TO THE PENALTIES DESCRIBED IN SUBDIVISION FOUR OF THIS SECTION.

3. AUTHORIZATION FOR WAGE FREEZE. (A) DURING A CONTROL PERIOD, UPON A FINDING BY THE AUTHORITY THAT A WAGE FREEZE IS ESSENTIAL TO THE ADOPTION OR MAINTENANCE OF A MTA BUDGET OR A FINANCIAL PLAN THAT IS IN COMPLIANCE WITH THIS TITLE, THE AUTHORITY, AFTER ENACTMENT OF A RESOLUTION SO FINDING, MAY DECLARE A FISCAL CRISIS. UPON MAKING SUCH A DECLARATION, THE AUTHORITY SHALL BE EMPOWERED TO ORDER THAT ALL INCREASES IN SALARY OR WAGES OF EMPLOYEES OF THE MTA WHICH WILL TAKE EFFECT AFTER THE DATE OF THE ORDER PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS, OTHER ANALOGOUS CONTRACTS OR INTEREST ARBITRATION AWARDS, NOW IN EXISTENCE OR HEREAFTER ENTERED INTO, REQUIRING SUCH SALARY INCREASES AS OF ANY DATE THEREAFTER ARE SUSPENDED. SUCH ORDER MAY ALSO PROVIDE THAT ALL INCREASED PAYMENTS FOR HOLIDAY AND VACATION DIFFERENTIALS, SHIFT DIFFERENTIALS, SALARY ADJUSTMENTS ACCORDING TO PLAN AND STEP-UPS OR INCREMENTS FOR EMPLOYEES OF THE MTA WHICH WILL TAKE EFFECT AFTER THE DATE OF THE ORDER PURSUANT TO COLLECTIVE BARGAINING AGREEMENTS, OTHER ANALOGOUS CONTRACTS OR INTEREST ARBITRATION AWARDS REQUIRING SUCH INCREASED PAYMENTS AS OF ANY DATE THEREAFTER ARE, IN THE SAME MANNER, SUSPENDED. FOR THE PURPOSES OF COMPUTING THE PENSION BASE OF RETIREMENT ALLOWANCES, ANY SUSPENDED SALARY OR WAGE INCREASES AND ANY SUSPENDED OTHER PAYMENTS SHALL NOT BE CONSIDERED AS PART OF COMPENSATION OR FINAL COMPENSATION OR OF ANNUAL SALARY EARNED OR EARNABLE. THE SUSPENSIONS AUTHORIZED HEREUNDER SHALL CONTINUE UNTIL ONE YEAR AFTER THE DATE OF THE ORDER AND, TO THE EXTENT OF ANY DETERMINATION OF THE AUTHORITY THAT A CONTINUATION OF SUCH SUSPENSIONS, TO A DATE SPECIFIED BY THE AUTHORITY, IS NECESSARY IN ORDER TO ACHIEVE THE OBJECTIVES OF THE FINANCIAL PLAN, SUCH SUSPENSIONS SHALL BE CONTINUED TO THE DATE SPECIFIED BY THE AUTHORITY, WHICH DATE SHALL IN NO EVENT BE LATER THAN THE END OF THE INTERIM FINANCE PERIOD, PROVIDED THAT SUCH SUSPENSIONS SHALL TERMINATE WITH RESPECT TO EMPLOYEES WHO HAVE AGREED TO A DEFERRAL OF SALARY OR WAGE INCREASE UPON THE CERTIFICATION OF THE AGREEMENT BY THE AUTHORITY PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION.

(B) THIS SUBDIVISION SHALL NOT BE APPLICABLE TO EMPLOYEES OF THE MTA COVERED BY A COLLECTIVE BARGAINING AGREEMENT OR AN EMPLOYEE OF THE MTA NOT COVERED BY A COLLECTIVE BARGAINING AGREEMENT WHERE THE COLLECTIVE BARGAINING REPRESENTATIVE OR SUCH UNREPRESENTED EMPLOYEE HAS AGREED TO A DEFERMENT OF SALARY OR WAGE INCREASE, BY AN INSTRUMENT IN WRITING WHICH HAS BEEN CERTIFIED BY THE AUTHORITY AS BEING AN ACCEPTABLE AND APPROPRIATE CONTRIBUTION TOWARD ALLEVIATING THE FISCAL CRISIS OF THE MTA. ANY SUCH AGREEMENT TO A DEFERMENT OF SALARY OR WAGE INCREASE MAY PROVIDE THAT FOR THE PURPOSES OF COMPUTING THE PENSION BASE OF RETIREMENT ALLOWANCES, ANY DEFERRED SALARY OR WAGE INCREASE MAY BE CONSIDERED AS PART OF COMPENSATION OR FINAL COMPENSATION OR OF ANNUAL SALARY EARNED OR EARNABLE.

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

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

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

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

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

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

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

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

S 3764. EFFECT OF INCONSISTENT PROVISIONS. INSOFAR AS THE PROVISIONS OF THIS TITLE ARE INCONSISTENT WITH THE PROVISIONS OF ANY OTHER ACT, GENERAL OR SPECIAL, OR OF ANY CHARTER, LOCAL LAW, ORDINANCE OR RESOLUTION OF ANY MUNICIPALITY, THE PROVISIONS OF THIS TITLE SHALL BE CONTROLLING. NOTHING CONTAINED IN THIS SECTION SHALL BE HELD TO SUPPLEMENT OR OTHERWISE EXPAND THE POWERS OR DUTIES OF THE AUTHORITY OTHERWISE SET FORTH IN THIS TITLE.

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

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

S 3. This act shall take effect immediately.