AN ACT to amend the public authorities law, in relation to the Suffolk county judicial facilities agency and the H. Lee Dennison building

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

Section 1. Subdivision 6 of section 2350-b of the public authorities law, as amended by chapter 762 of the laws of 2005, is amended to read as follows:

6. "Construct", "Construction" or "Constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of the John P. Cohalen court complex [and], the new replacement correctional facility at Yaphank, THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX; the inspection and supervision thereof; and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedure and other actions preliminary or incidental thereto.

Section 2. Subdivisions 15 and 17 of section 2350-b of the public authorities law, as amended by chapter 762 of the laws of 2005, are amended and two new subdivisions 12-a and 13-a are added to read as follows:

12-A. "H. LEE DENNISON BUILDING" MEANS THE H. LEE DENNISON BUILDING OF THE SUFFOLK COUNTY GOVERNMENT LOCATED IN HAUPPAUGE, NEW YORK.

13-A. "NORTH COUNTY COMPLEX" MEANS ONE OR MORE OF THE BUILDINGS OF THE GOVERNMENT OF THE COUNTY OF SUFFOLK DESIGNATED BY THE COUNTY LEGISLATURE IN THE NORTH COUNTY COMPLEX IN HAUPPAUGE, NEW YORK TO BE SOLD, LEASED OR

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.
ASSIGNED TO THE AGENCY PURSUANT TO SUBDIVISION ONE OF SECTION TWENTY-THREE HUNDRED FIFTY-F OF THIS TITLE.

15. "Project" means any acquisition, erection, building, alteration, improvement, increase, enlargement, extension, renovation, rehabilitation or relocation of the John P. Cohalen court complex [or], the new replacement correctional facility at Yaphank, THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX, or any part thereof.

17. "Properties" means the John P. Cohalen court complex [or], the new replacement correctional facility at Yaphank, THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX, or any part thereof or appurtenances or any property incidental thereto.

S 3. Subdivision 1 of section 2350-c of the public authorities law, as amended by chapter 762 of the laws of 2005, is amended to read as follows:

1. A public corporation, to be known as the "Suffolk county judicial facilities agency" is hereby created for the public purposes and charged with the duties and having the powers provided in this title. The agency shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws. The governing body of the agency shall consist of a body totaling six members, all of whom shall be residents of the county, one of whom shall be appointed by the presiding officer of the county legislature, without confirmation by the county legislature, one of whom shall be appointed by the minority leader of the county legislature, without confirmation by the county legislature, two of whom shall be appointed by the county legislature but not subject to review or veto by the county executive and two of whom shall be appointed by the county executive but not subject to review or veto by the county legislature. The terms of the members of the governing body of the agency serving on the effective date of the chapter of the laws of two thousand [five] THIRTEEN that [added this sentence] AMENDED THIS SECTION shall expire on the sixtieth day following such effective date. On or before the sixtieth day, six members shall be appointed by the persons having the authority to make such appointments under this section. Former members of the governing body of the corporation may be reappointed in the discretion of the appointing authority. The appointing authorities shall consult together in making their appointments in an effort to achieve the goal of having at least one member of the board with a background in each of the following areas of experience: finance, operation of correctional facilities, operation of judicial facilities, construction, and real estate. Each member so appointed shall serve for a term of three years, provided, however, that the members first appointed to the six member board by the presiding officer and the minority leader of the county legislature shall be appointed for an initial term of two years and the members first appointed to the six member board by the county legislature shall be appointed for an initial term of four years. Failure by any party to appoint any member shall not invalidate the creation or establishment of the agency and shall result in the creation of a vacancy in the governing body of the agency which may be filled at any time by such party. The clerk of the county legislature shall notify the county executive and, after the appointment of the initial members, the agency, of each appointment setting forth (a) the name of the agency and (b) the name of the member appointed and the member's term of office. All such members shall continue to hold office until their successors are appointed and qualify. Vacancies shall be filled in the manner provided for original appointment. Vacancies,
occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office by their appointing authority for inefficiency, neglect of duty or misconduct in office; provided, however, that such member shall be given a copy of the charges against him or her and an opportunity of being heard in person, or by counsel, in his or her defense upon not less than ten days notice. Members of the agency shall receive no compensation for their services, but may be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title.

S 4. Section 2350-e of the public authorities law, as amended by chapter 762 of the laws of 2005, is amended to read as follows:

S 2350-e. Governmental capacity of the agency and the county. The agency and the county, in carrying out their respective powers and duties under this title, shall be deemed to be acting in a governmental capacity and in the performance of an essential governmental function.

The John P. Cohalen court complex when held by the agency and either leased to the county, used for judicial purposes by the county or the state or any state agency or the subject of a service agreement between the agency and the county shall continue to be regarded as being used in the performance of an essential governmental function. For purposes of the judiciary law, or any successor thereto or similar law providing for the payment by the state of aid for the construction and, or, operation and maintenance of facilities for occupancy by the judiciary of the state, including personal functions ancillary thereto, the agency shall be considered a political subdivision of the state and shall be eligible to receive all state aid for the John P. Cohalen court complex to the same extent as the county.

The new replacement correctional facility at Yaphank, when held by the agency and either leased to the county, used for correctional purposes by the county or the state or any state agency, or the subject of a service agreement between the agency and the county shall continue to be regarded as being used in the performance of an essential governmental function. For purposes of the correction law, or any successor thereto or similar law providing for the payment by the state of aid for the construction and, or, operation and maintenance of facilities for correctional [proposes] PURPOSES, including personnel functions ancillary thereto, the agency shall be considered a political subdivision of the state and shall be eligible to receive all state aid for the new replacement correctional facility at Yaphank to the same extent as the county.


S 5. Subdivision 1 of section 2350-f of the public authorities law, as amended by chapter 762 of the laws of 2005, is amended to read as follows:
1. The county is hereby authorized, by a majority vote of the county legislature, subject to review and veto of the county executive in the manner set forth in the county charter, to sell, lease or assign to the agency any or all right, title and interest of the county in and to the John P. Cohalen court complex [and], the new replacement correctional facility at Yaphank AND THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX, including, without limitation, any land and rights-in-land, any buildings, structures and improvements now or at any time hereafter erected or constructed upon such land or rights-in-land, any fixtures attached thereto, any personal property of any kind and description, whether the same is a structural or nonstructural component, any alteration, replacements, additions or substitutions for any of the foregoing, and any operation and maintenance or functionally similar agreements, by any name known. Any such sale, lease, or assignment may, notwithstanding the provisions of any other law, general, special or local, including, without limitations, section two hundred fifteen of the county law, or the county charter, be upon such terms for such duration and upon such conditions and for such consideration as may be agreed upon, without competitive bidding therefor and shall not be subject to permissive or mandatory referendum. Notwithstanding any other provision of law, general, special or local, the county may lease back such properties and, or, enter into a service agreement with the agency pursuant to which the agency will cause the John P. Cohalen court complex, or any part thereof, to be made available for occupancy for judicial purposes and functions [and], the new replacement correctional facility at Yaphank to be made available for occupancy and use for correction purposes and functions, AND THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX TO BE MADE AVAILABLE FOR OCCUPANCY AND USE FOR GOVERNMENTAL PURPOSES AND FUNCTIONS and for which the county will pay to the agency a fee, and enter into an agreement with the agency pursuant to which the county will operate and, or, maintain such court complex [and], such correctional facility, AND THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX for the agency, each upon such terms and for such duration and upon such conditions and for such consideration as may be agreed upon and without competitive bidding. It is hereby determined that the powers conferred by this section shall be in addition and supplemental to any powers contained in any other law and nothing herein contained shall be construed as limiting a right or power that the county now has or may hereafter have pursuant to any other provision of law. It is hereby determined that the powers conferred by this section are conferred for a public purpose and any sale, lease, assignment or other contract or agreement entered into pursuant to the provisions of this section shall be deemed to be and is herein determined to be for a public purpose.

S 6. Subdivision 1 of section 2350-g of the public authorities law is amended by adding a new paragraph (c) to read as follows:

(C) THE AGGREGATE PRINCIPAL AMOUNT OF SUCH BONDS, NOTES OR OTHER OBLIGATIONS FOR THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX SHALL NOT EXCEED SEVENTY MILLION DOLLARS ($70,000,000), EXCLUDING BONDS, NOTES OR OTHER OBLIGATIONS ISSUED TO REFUND OR REPAY BONDS, NOTES OR OTHER OBLIGATIONS THERETOFORE ISSUED FOR SUCH PURPOSES; PROVIDED, HOWEVER, THAT UPON ANY SUCH REFUNDING OR REPAYMENT THE TOTAL AGGREGATE PRINCIPAL AMOUNT OF OUTSTANDING BONDS, NOTES AND OTHER OBLIGATIONS MAY BE GREATER THAN SEVENTY MILLION DOLLARS ($70,000,000), ONLY IF THE PRESENT VALUE OF THE AGGREGATE DEBT SERVICE OF THE REFUNDING OR REPAYMENT OF BONDS, NOTES OR OTHER OBLIGATIONS TO BE ISSUED SHALL NOT EXCEED THE
PRESENT VALUE OF THE AGGREGATE DEBT SERVICE OF THE BONDS, NOTES, OR OTHER OBLIGATIONS SO TO BE REFUNDED OR REPAID.

S 7. Paragraphs (a), (e) and (h) of subdivision 4 and subdivision 10 of section 2350-g of the public authorities law, paragraph (a) of subdivision 4 as amended by chapter 762 of the laws of 2005 and paragraphs (e) and (h) of subdivision 4 and subdivision 10 as added by chapter 200 of the laws of 1999, are amended to read as follows:

(a) Bonds shall be authorized by resolution of the agency, be in such denominations and bear such date or dates and mature at such time or times, as such resolution may provide, provided that bonds and renewals thereof issued for the John P. Cohalen court complex shall mature no later than December thirty-first, two thousand sixteen; and bonds and renewals thereof for the new replacement correctional facility at Yaphank shall mature no later than December thirty-first, two thousand thirty-five; AND BONDS AND RENEWALS THEREOF FOR THE H. LEE DENNISON BUILDING AND THE NORTH COUNTY COMPLEX SHALL MATURE NO LATER THAN DECEMBER THIRTY-FIRST, TWO THOUSAND THIRTY-THREE.

(e) No private or public bond sale on a negotiated basis shall be conducted by the agency without prior approval of the state comptroller. The agency shall annually prepare and approve a bond sale report which shall include the private or public bond sale guidelines as specified in this subdivision, amendments to such guidelines since the last private or public bond sale report, an explanation of the bond sale guidelines and amendments, and the results of any sale of bonds conducted during the fiscal year. Such bond sale report may be a part of any other annual report that the agency is required to make.

(h) Nothing contained in this subdivision shall be deemed to alter, affect the validity of, modify the terms of, or impair any contract or agreement made or entered into in violation of, or without compliance with, the provisions of this subdivision.

10. The agency, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the agency, which shall thereupon be canceled at a price not exceeding; (a) if the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date, or (b) if the bonds are not then immediately redeemable then the redemption price applicable on the first date after such purchase upon which the bonds become subject to redemption, plus accrued interest to be THE next interest payment date.

S 8. Section 2350-j of the public authorities law, as added by chapter 200 of the laws of 1999, is amended to read as follows:

S 2350-j. Moneys of the agency. All moneys of the agency from whatever source derived shall be paid to the treasurer of the agency and shall be deposited forthwith in a bank or banks in the state designated by the governing body. The moneys in such accounts shall be paid out on check of the treasurer upon requisition by the governing body or of such other person or persons as the governing body may authorize to make such requisitions. All deposits of such moneys shall be secured by obligations of the United States or of the state or of the county or of any other municipality within the county of a market value equal at all times to the amount on deposit and all banks and trust companies are authorized to give such security for such deposits. The agency shall have power, notwithstanding the provisions of this section, to contract with the holders of any bonds as to the custody collection, security, investment payment of any moneys of the agency or any moneys held in trust or otherwise for the payment of bonds or in any way to secure
bonds, and to carry out any such contract notwithstanding that such contract may be inconsistent with the provisions of this section. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds and deposits of such moneys may be secured in the same manner as moneys of the agency and all banks and trust companies are authorized to give such security for such deposits. Any moneys of the agency not required for immediate use or disbursement may, at the discretion of the agency, be invested in those obligations specified pursuant to the provisions of section ninety-eight-a of the state finance law. Subject to the provisions of any contract with bondholders and with the approval of the comptroller, the agency shall prescribe a system of accounts.

S 9. Subdivisions 1 and 4 of section 2350-m of the public authorities law, as added by chapter 200 of the laws of 1999, are amended to read as follows:

1. It is hereby determined that the creation of the agency and the carrying out of its corporate purpose is in all respects for the benefit of the people of the state and is a public purpose and the agency shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any fees, taxes, special ad valorem levies or special 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 or other taxes, upon or with respect to any properties 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 fees, rents, charges, revenues or other income received by the agency, or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf. The construction, use, occupation or possession of any properties owned by the agency, including improvements thereon or there-to, by the state or any state agency or by the county or any other person under a lease, lease and sublease or any other agreement shall not act to abrogate or limit the foregoing exemption, notwithstanding that the lessee, user, occupant or person in possession shall claim ownership for federal income tax purposes.

4. The agency may pay, or may enter into agreements with the county or any municipality to pay, a sum or sums annually or otherwise or to provide other considerations with respect to [of] the real property owned by the agency located within the county or such municipality.

S 10. Subdivision 2 of section 2350-o of the public authorities law, as amended by chapter 762 of the laws of 2005, is amended to read as follows:

2. Construction contracts let by the agency shall be in conformity with the applicable provisions of section one hundred thirty-five of the state finance law, provided, however, that any contract for the construction, reconstruction, rehabilitation or improvement of buildings let by the agency shall not be governed by section one hundred thirty-five of the state finance law if the agency chooses to utilize a project labor agreement IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO HUNDRED TWENTY-TWO OF THE LABOR LAW when the record supporting the decision to enter into such an agreement establishes that it is justified by the interests underlying the competitive bidding laws.
S. 5029                             7                            A. 7179

1 S 11. Subdivision 5 of section 2350-s of the public authorities law, as added by chapter 762 of the laws of 2005, is amended to read as follows:
2 5. The agency shall provide the secretaries of the [state] SENATE finance committee and the assembly ways and means committee, with access to any and all books, records, audits and contracts of the agency.

S 12. Subdivision 2 of section 2350-v of the public authorities law is amended by adding a new paragraph (h) to read as follows:

S 13. Subdivision 1 of section 2350-ff of the public authorities law, as added by chapter 762 of the laws of 2005, is amended to read as follows:
1. Every person or organization subject to the provisions of article one-A of the legislative law as a lobbyist or client (as those terms are defined in such article) because of acts relating to procurements of the agency shall, in addition to filing one or more statements of registration and reports with the New York temporary state commission on lobbying as required by article one-A of the legislative law, file a copy of each such document required to be filed under said article with the [authority] AGENCY.

S 14. This act shall take effect immediately.