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

5260

2013-2014 Regular Sessions

I N A S S E M B L Y

February 21, 2013

Introduced by M. of A. BRENNAN, ORTIZ, STEVENSON, GIBSON -- Multi-Sponsored by -- M. of A. AUBRY, CLARK, COLTON, GOTTFRIED, GUNTHER, JACOBS, ROSENTHAL, RUSSELL, SWEENEY -- read once and referred to the Committee on Energy

AN ACT to amend the public authorities law and the general city law, in relation to the creation of city public utility districts and the provision of light, heat, power and energy to such districts by the power authority of the state of New York

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

Section 1. The public authorities law is amended by adding a new section 1005-b to read as follows:

S 1005-B. CONTRACTS WITH THE AUTHORITY. 1. A. THE AUTHORITY IS AUTHORIZED AND, WHERE THE TRUSTEES DEEM IT FEASIBLE AND ADVISABLE, DIRECTED TO ENTER INTO CONTRACTS WITH CITIES FOR THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES TO CITY PUBLIC UTILITY DISTRICTS ESTABLISHED OR EXTENDED PURSUANT TO ARTICLE FIVE OF THE GENERAL CITY LAW.

B. THE AUTHORITY SHALL NOT UNREASONABLY DENY ANY REQUEST OF A CITY TO ENTER INTO A CONTRACT DESCRIBED IN PARAGRAPH A OF THIS SUBDIVISION, AND MAY PROVIDE, AT THE REQUEST OF ANY CITY ON BEHALF OF A CITY PUBLIC UTILITY DISTRICT, ANY SERVICES REASONABLY RELATED TO THE PREPARATION OF A DISTRICT PLAN AS DEFINED IN SECTION SEVENTY-B OF THE GENERAL CITY LAW AND BE REIMBURSED BY SUCH CITY FOR SUCH SERVICES.

2. A. THE AUTHORITY MAY, PURSUANT TO ANY CONTRACT ENTERED INTO WITH A CITY, CONSTRUCT AND/OR ACQUIRE BY PURCHASE, CONDEMNATION OR OTHERWISE ANY LAND, STRUCTURES, EQUIPMENT OR FACILITIES NECESSARY FOR THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES.

B. THE AUTHORITY MAY REQUEST THE STATE PUBLIC SERVICE COMMISSION, THE CITY WITH WHICH IT HAS ENTERED OR IS ENTERING INTO A CONTRACT OR ANY UTILITY RENDERING SERVICES PURSUANT TO THE PROVISIONS OF THE PUBLIC

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

LBD09140-01-3

SERVICE LAW TO FURNISH SUCH BOOKS, RECORDS, MAPS, CUSTOMER ACCOUNTS AND OTHER INFORMATION REASONABLY NECESSARY TO THE AUTHORITY FOR THE PROVISION OF THE SERVICES DESCRIBED IN SUCH CONTRACT. THE AUTHORITY MAY COMPEL THE PRODUCTION OF SUCH INFORMATION PURSUANT TO SECTION ONE THOUSAND SIX OF THIS TITLE.

3. A. ON FEBRUARY FIRST IN EACH CALENDAR YEAR, THE AUTHORITY SHALL SUBMIT TO THE LOCAL LEGISLATIVE BODY OF EACH CITY A PROPOSED CONTRACT SETTING FORTH A CAPITAL IMPROVEMENT PLAN FOR EACH CITY PUBLIC UTILITY DISTRICT IN WHICH THE AUTHORITY IS RENDERING SERVICE. IN ADDITION, THE AUTHORITY SHALL FORWARD A COPY OF SUCH PLAN TO EACH AFFECTED CITY PUBLIC UTILITY DISTRICT COUNCIL.

B. THE AUTHORITY MAY CONTRACT WITH ANY CITY, OR A CITY PUBLIC UTILITY DISTRICT COUNCIL WITH THE PERMISSION OF SUCH CITY, TO ACT AS THE AGENT OF THE AUTHORITY TO RENDER SUCH SERVICES AS THE AUTHORITY MAY DEEM NECESSARY OR CONVENIENT IN THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES TO A CITY PUBLIC UTILITY DISTRICT.

4. A. THE AUTHORITY SHALL PROVIDE TO THE LOCAL LEGISLATIVE BODY AND TO THE CITY PUBLIC UTILITY DISTRICT AN ANNUAL REPORT ON THE OPERATIONS OF ITS SERVICES FOR EACH CITY PUBLIC UTILITY DISTRICT, INCLUDING A FINANCIAL STATEMENT AS TO THE ASSETS, LIABILITIES, REVENUES AND EXPENSES OF THE DISTRICT CERTIFIED BY AN INDEPENDENT PUBLIC ACCOUNTANT.

B. PROCEEDS OF ANY CHARGES FOR LIGHT, HEAT, STEAM, POWER OR ENERGY TO ANY SUCH DISTRICT SHALL FIRST BE PLACED IN A SEPARATE ACCOUNT BY THE AUTHORITY FOR SUCH PUBLIC UTILITY DISTRICT, AND NOT COMMINGLED WITH ANY OTHER FUNDS OF THE AUTHORITY UNTIL SUCH PROCEEDS AND DISBURSEMENTS SHALL HAVE BEEN ENTERED INTO THE CITY'S BOOKS OF ACCOUNT IN THE CITY PUBLIC UTILITY DISTRICT ACCOUNT.

5. A. THE AUTHORITY SHALL AT ALL TIMES MAINTAIN FINAL CONTROL OF THE RATES AND CHARGES, EXCEPT AS PROVIDED IN PARAGRAPH B OF THIS SUBDIVISION, FOR THE PROVISION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION SERVICES. SUCH RATES AND CHARGES SHALL BE JUST AND REASONABLE, AND SHALL COVER THE OPERATIONS AND MAINTENANCE OF THE SERVICES, INCLUDING FUEL AND PURCHASED POWER, A REASONABLE PROVISION FOR DEPRECIATION, WORKING CAPITAL AND THE PAYMENT OF PRINCIPAL AND INTEREST ON SUCH NOTES AND BONDS OF THE AUTHORITY AS MAY HAVE BEEN ISSUED INCIDENT TO THE PROVISION OF SUCH SERVICES. IN ADDITION, THE LOCAL LEGISLATIVE BODY AND THE AUTHORITY MAY CONTRACT FOR THE AUTHORITY TO MAKE PAYMENTS IN LIEU OF TAXES TO THE CITY.

B. THE AUTHORITY, THE LOCAL LEGISLATIVE BODY AND THE DISTRICT COUNCIL MAY CONTRACT FOR A SURCHARGE IN SUCH RATES AND CHARGES TO COVER THE ACCUMULATION OF ANY EQUITY INTEREST IN ANY FACILITIES ACQUIRED OR CONSTRUCTED BY THE AUTHORITY ON BEHALF OF THE REAL PROPERTY OWNERS, TENANTS, RATEPAYERS AND CITIZENS OF THE CITY PUBLIC UTILITY DISTRICT.

S 2. The general city law is amended by adding a new article 5 to read as follows:

ARTICLE 5
CITY PUBLIC UTILITY DISTRICT LAW

SECTION 70. SHORT TITLE.
70-A. LEGISLATIVE FINDINGS AND DECLARATION OF INTENT.
70-B. DEFINITIONS.
70-C. LOCAL ADOPTION OF ARTICLE.
70-D. LEGISLATIVE POWERS.
70-E. DISTRICT PLAN.
70-F. NOTICE AND HEARING.
70-G. CREATION OR EXTENSION OF THE DISTRICT.
70-H. PUBLICATION; FILING; JUDICIAL REVIEW.

70-I. CAPITAL IMPROVEMENTS.
70-J. DISTRICT COUNCILS.

S 70. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "CITY PUBLIC UTILITY DISTRICT LAW".

S 70-A. LEGISLATIVE FINDINGS AND DECLARATION OF INTENT. IT IS HEREBY FOUND AND DECLARED THAT THE HIGH COST OF ENERGY AND POWER IN THE STATE OF NEW YORK AND ESPECIALLY THE CITY OF NEW YORK ARE DETRIMENTAL TO THE PROSPERITY AND ECONOMIC WELL-BEING OF THE CITIZENS AND BUSINESSES OF THE STATE. AT THE SAME TIME, TECHNOLOGICAL ADVANCES IN THE PROVISION OF ENERGY AND INCREASES IN THE RELATIVE VALUE OF BYPRODUCT HEAT HAVE RESULTED IN THE POSSIBILITY OF THE ECONOMIC PROVISION OF LIGHT, HEAT AND POWER ON A SMALL-SCALE BASIS. IN ORDER TO ALLOW THE PEOPLE AND BUSINESS OF THE STATE AND CITY OF NEW YORK TO REALIZE THE BENEFITS OF THE LOW-COST PROVISION OF LIGHT, HEAT AND POWER IN A MANNER COMPATIBLE WITH THE NEEDS AND DESIRES OF CITIZENS IN A DEMOCRACY, AND TO PROVIDE YARDSTICKS FOR THE PERFORMANCE OF UTILITY COMPANIES PROVIDING SERVICE PURSUANT TO THE PROVISIONS OF THE PUBLIC SERVICE LAW, THE LEGISLATURE HEREBY FINDS THE CREATION OF CITY PUBLIC UTILITY DISTRICTS TO BE AN EFFECTIVE MEANS OF REDUCING THE COST OF ENERGY AND POWER.

S 70-B. DEFINITIONS. WHEN USED IN THIS ARTICLE THE FOLLOWING WORDS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "DISTRICT" MEANS A CITY PUBLIC UTILITY DISTRICT ESTABLISHED PURSUANT TO THIS ARTICLE.

(B) "AUTHORITY" MEANS THE POWER AUTHORITY OF THE STATE OF NEW YORK.

(C) "DISTRICT COUNCIL" MEANS THE COUNCIL ESTABLISHED PURSUANT TO SECTION SEVENTY-J OF THIS ARTICLE.

(D) "DISTRICT PLAN" OR "PLAN" MEANS A PROPOSAL WHICH INCLUDES:

(1) A MAP OF THE DISTRICT;

(2) THE WRITTEN REPORT OR REPORTS OF THE LEGISLATIVE BODY CONTAINING A DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION IN A MANNER SUFFICIENT TO IDENTIFY THE FACILITIES TO BE ACQUIRED OR CONSTRUCTED, THE LANDS TO BE INCLUDED, THE PRESENT AND PROPOSED USES OF THESE LANDS OR FACILITIES, THE MAXIMUM TOTAL AND ANNUAL AMOUNT PROPOSED TO BE EXPENDED FOR THE ACQUISITION OR CONSTRUCTION OF SUCH LAND AND FACILITIES AND THEIR MAINTENANCE AND OPERATION, THE PROPOSED SOURCE OR SOURCES OF FINANCING, AND THE PROPOSED TIME FOR IMPLEMENTATION AND COMPLETION OF THE PLAN;

(3) ANY OTHER ITEM OR MATTER REQUIRED TO BE INCORPORATED THEREIN BY THE LEGISLATIVE BODY.

(E) "FACILITIES" MEANS ANY LAND, STRUCTURES, AND/OR EQUIPMENT TO BE ACQUIRED OR CONSTRUCTED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF LIGHT, HEAT, POWER, ENERGY OR ENERGY CONSERVATION.

(F) "LEGISLATIVE BODY" MEANS THE CITY BODY EMPOWERED TO ADOPT AND AMEND LOCAL LAWS AND ORDINANCES, EXCEPT THAT IN A CITY OF ONE MILLION OR MORE THE TERM "LEGISLATIVE BODY" SHALL MEAN THE BOARD OF ESTIMATE, WHICH MAY ACT BY RESOLUTION, RATHER THAN BY LOCAL LAW, WHERE THE LEGISLATIVE BODY IS OTHERWISE REQUIRED BY THIS ARTICLE TO ACT BY LOCAL LAW.

(G) "VOTER" MEANS A PERSON QUALIFIED TO VOTE UNDER THE PROVISIONS OF THE ELECTION LAW AT THE TIME SUCH PERSON SIGNS ANY PETITION DESCRIBED IN SECTION SEVENTY-E OF THIS ARTICLE.

S 70-C. LOCAL ADOPTION OF ARTICLE. EVERY CITY IS AUTHORIZED TO ADOPT A LOCAL LAW, SUBJECT TO PERMISSIVE REFERENDUM, PROVIDING THAT THE PROVISIONS OF THIS ARTICLE SHALL BE APPLICABLE TO THE CREATION OR EXTENSION OF DISTRICTS IN THE CITY.

S 70-D. LEGISLATIVE POWERS. UPON THE CREATION OF A DISTRICT PURSUANT TO THE PROVISIONS OF THIS ARTICLE, ANY CITY SHALL HAVE AUTHORITY TO

EXERCISE THE FOLLOWING POWERS WITH RESPECT TO SUCH DISTRICT, SUBJECT TO THE PROVISIONS OF THIS ARTICLE:

(A) TO CONTRACT ON BEHALF OF ALL OR A PART OF THE DISTRICT WITH THE POWER AUTHORITY OF THE STATE OF NEW YORK FOR THE ACQUISITION OR CONSTRUCTION OF LAND, FACILITIES, STRUCTURES OR EQUIPMENT FOR THE PROVISION OF LIGHT, HEAT, STEAM, ELECTRIC POWER AND OTHER FORMS OF ENERGY FOR GENERAL PUBLIC USE ON A REASONABLE, NONDISCRIMINATORY BASIS TO ALL OR PART OF THE DISTRICT. ANY SUCH CONTRACT SHALL CONTAIN PROVISIONS CONFORMING THE RENDERING OF ANY PUBLIC UTILITY SERVICE AS DEFINED IN THE PUBLIC SERVICE LAW WITH THE PROVISIONS OF THE PUBLIC SERVICE LAW RESPECTING APPLICATIONS FOR, AND TERMINATIONS OF, ELECTRIC SERVICE FOR RESIDENTIAL CUSTOMERS, AND PROHIBITING ANY UNDUE OR UNREASONABLE PREFERENCES OR DISCRIMINATIONS BETWEEN CLASSES OF CUSTOMERS.

(B) TO CONTRACT TO ACT AS THE AUTHORITY'S AGENT FOR THE RENDERING OF ANY SERVICES, MATERIALS, SUPPLIES, STUDIES, ENGINEERING OR DESIGN WORK NECESSARY AND/OR CONVENIENT FOR THE AUTHORITY IN THE PROVISION OF LIGHT, HEAT, ELECTRIC POWER, STEAM OR OTHER FORMS OF ENERGY TO ALL OR PART OF THE DISTRICT.

S 70-E. DISTRICT PLAN. (A) THE LEGISLATIVE BODY OF ANY CITY TO WHICH THE PROVISIONS OF THIS ARTICLE ARE APPLICABLE MAY PROVIDE FOR THE PREPARATION OF A DISTRICT PLAN UPON ITS OWN MOTION, OR AT THE REQUEST OF THE CHIEF EXECUTIVE OFFICER OR AN INDIVIDUAL OR AGENCY DESIGNATED BY HIM, OR UPON THE WRITTEN PETITION, SIGNED AND ACKNOWLEDGED, OF (1) THE OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE ASSESSED VALUATION OF ALL THE TAXABLE REAL PROPERTY WITHIN THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, AS SHOWN UPON THE LATEST COMPLETED ASSESSMENT ROLL OF THE CITY, AND AT LEAST FIFTY-ONE PERCENT OF THE OWNERS OF REAL PROPERTY WITHIN THE AREA INCLUDED IN THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, OR (2) TEN PERCENT OF THE VOTERS VOTING IN THE LAST GENERAL ELECTION IN AN AREA NOT LESS THAN A COUNCILMANIC DISTRICT FOR ANY CITY OTHER THAN THE CITY OF NEW YORK OR AN AREA NOT LESS THAN AN ASSEMBLY DISTRICT IN THE CITY OF NEW YORK, OR FIVE PERCENT OF ALL THE DULY REGISTERED VOTERS IN A COMMUNITY DISTRICT AS DESCRIBED IN SECTION TWENTY-SEVEN HUNDRED ONE OF THE CHARTER OF THE CITY OF NEW YORK, AS THE CASE MAY BE, FILED IN THE OFFICE OF THE CITY CLERK.

(B) SUCH PETITION SHALL PRESENT TO THE LOCAL LEGISLATIVE BODY, IN A FORM PRESCRIBED BY THE LOCAL BOARD OF ELECTIONS FOR SUCH CITY, THE REQUEST OF THE UNDERSIGNED VOTERS OF SUCH COUNCILMANIC, ASSEMBLY OR COMMUNITY DISTRICT THAT THE COUNCILMANIC, ASSEMBLY OR COMMUNITY DISTRICT BE DESIGNATED AS A CITY PUBLIC UTILITY DISTRICT. IN THE CASE OF A COMMUNITY DISTRICT, THE LOCAL BOARD OF ELECTIONS SHALL CERTIFY TO ANY PERSON OR PERSONS SEEKING SUCH INFORMATION THE NUMBER OF REGISTERED VOTERS WHICH WOULD DULY CONSTITUTE FIVE PERCENT OF ALL SUCH REGISTERED VOTERS IN SUCH COMMUNITY DISTRICT. THE PETITION MAY BE MADE UPON SEPARATE SHEETS AND THE SIGNATURES OF EACH SHALL BE AUTHENTICATED IN THE MANNER PROVIDED BY THE ELECTION LAW FOR THE AUTHENTICATION OF DESIGNATING PETITIONS. THE SEVERAL SHEETS SO SIGNED AND AUTHENTICATED WHEN FASTENED TOGETHER AND OFFERED FOR FILING SHALL BE DEEMED TO CONSTITUTE ONE PETITION. A SIGNATURE MADE EARLIER THAN ONE HUNDRED TWENTY DAYS BEFORE THE FILING SHALL NOT BE COUNTED. IF WITHIN TEN DAYS AFTER THE FILING OF SUCH PETITION A WRITTEN OBJECTION THERETO BE FILED WITH THE OFFICER WITH WHOM SUCH PETITION IS REQUIRED BY LAW TO BE FILED, THE SUPREME COURT OR ANY JUSTICE THEREOF SHALL DETERMINE ANY QUESTION ARISING THEREUNDER AND MAKE SUCH ORDER AS JUSTICE MAY REQUIRE. SUCH PROCEEDINGS SHALL BE HEARD AND DETERMINED IN THE MANNER PRESCRIBED BY THE ELECTION LAW IN RELATION TO JUDICIAL PROCEEDINGS THEREUNDER.

(C) THE CREATION OR EXTENSION OF A DISTRICT SHALL BE BASED UPON THE DISTRICT PLAN FILED IN THE OFFICE OF THE CITY CLERK, EXCEPT AS OTHERWISE PROVIDED IN THIS ARTICLE.

(D) IN ANY CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE DISTRICT PLAN SHALL FIRST BE SUBMITTED TO THE CITY PLANNING COMMISSION, WHICH SHALL FORWARD SUCH PLAN WITHIN FIVE DAYS TO THE COMMUNITY BOARD OR BOARDS FOR THE COMMUNITY DISTRICT OR DISTRICTS IN WHICH THE PROPOSED CITY PUBLIC UTILITY DISTRICT IS LOCATED, AND TO THE RESPECTIVE BOROUGH BOARD, IF THE PLAN INVOLVES PROPERTIES LOCATED IN TWO OR MORE COMMUNITY DISTRICTS. EACH COMMUNITY BOARD SHALL NOTIFY THE PUBLIC OF THE PROPOSED PLAN IN ACCORDANCE WITH THE REQUIREMENTS IMPOSED BY THE CITY PLANNING COMMISSION, AND MAY CONDUCT A PUBLIC HEARING AND SUBMIT A WRITTEN RECOMMENDATION TO THE CITY PLANNING COMMISSION NOT LATER THAN THIRTY DAYS AFTER RECEIPT OF THE PLAN. THE CITY PLANNING COMMISSION SHALL REVIEW THE PLAN AND RECOMMENDATIONS AND, AFTER A PUBLIC HEARING, PREPARE A REPORT FOR THE BOARD OF ESTIMATE. THE CITY PLANNING COMMISSION SHALL SUBMIT ITS REPORT TO THE BOARD OF ESTIMATE, TOGETHER WITH COPIES OF ANY RECOMMENDATION OF A COMMUNITY BOARD, WITHIN SIXTY DAYS FROM THE DATE OF EXPIRATION OF THE COMMUNITY BOARD'S PERIOD FOR REVIEWING THE PLAN AND SUBMITTING RECOMMENDATIONS.

(E) ANY DISTRICT PLAN SHALL CONFORM WITH THE REQUIREMENTS OF THIS SECTION. THE LEGISLATIVE BODY MAY DETERMINE THAT THE PLAN OR ANY PART OF THE PLAN SHALL BE PREPARED BY, OR UNDER THE SUPERVISION OF, CITY OFFICERS AND EMPLOYEES TO BE DESIGNATED BY SUCH LEGISLATIVE BODY OR BY PERSONS OR FIRMS TO BE EMPLOYED FOR THAT PURPOSE. THE EXPENSE INCURRED FOR THE PREPARATION OF THE PLAN OR PART OF THE PLAN SHALL BE A CITY CHARGE. THE STATE PUBLIC SERVICE COMMISSION AND THE POWER AUTHORITY OF THE STATE OF NEW YORK SHALL, UPON REQUEST OF THE LOCAL LEGISLATIVE BODY, PROVIDE SUCH ASSISTANCE AS MAY REASONABLY BE NECESSARY TO THE CITY AND/OR ITS AGENTS DESIGNATED TO PREPARE SUCH A PLAN, AND THE CITY SHALL REIMBURSE SUCH COMMISSION AND THE AUTHORITY FOR ALL REASONABLE AND NECESSARY EXPENSES IN RELATION TO SUCH ASSISTANCE.

(F) IF THE CITY SHALL THEREAFTER EXTEND THE DISTRICT, THE EXPENSE INCURRED BY THE CITY FOR THE PREPARATION OF THE PLAN OR ANY PART OF THE PLAN SHALL BE DEEMED TO BE PART OF THE COST OF ANY IMPROVEMENT, AND THE AUTHORITY SHALL REFLECT SUCH COST IN ITS BOOKS OF ACCOUNT AND IN ANY BONDS OR NOTES ISSUED FOR THE PURPOSE OF PROVIDING ANY LIGHT, HEAT, POWER OR ENERGY TO ALL OR PART OF A DISTRICT CREATED OR EXTENDED BY THIS ARTICLE.

S 70-F. NOTICE AND HEARING. (A) AFTER THE FILING OF THE DISTRICT PLAN IN THE OFFICE OF THE CITY CLERK, THE LEGISLATIVE BODY MAY ADOPT A RESOLUTION AND ENTER THE SAME IN THE MINUTES OF ITS PROCEEDINGS. SUCH RESOLUTION SHALL DESCRIBE THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION IN A MANNER SUFFICIENT TO IDENTIFY THE REAL PROPERTY OR AREA TO BE BENEFITTED AND INCLUDED THEREIN; THE IMPROVEMENTS AND/OR SERVICES PROPOSED TO BE PROVIDED BY THE AUTHORITY, ALONG WITH THE PROPOSED CONTRACT OR CONTRACTS WITH THE AUTHORITY FOR THE PROVISION OF SUCH SERVICES; THE DISTRICT COUNCIL; THE FACT THAT A PLAN DESCRIBING THE DISTRICT IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION AND THE TIME WHEN AND THE PLACE WHERE THE LEGISLATIVE BODY WILL MEET AND HOLD A PUBLIC HEARING TO HEAR ALL PERSONS INTERESTED IN THE SUBJECT THEREOF, WHICH SHALL BE NO LATER THAN THIRTY DAYS AFTER THE ADOPTION OF THE RESOLUTION; A STATEMENT THAT ANY OWNER OF REAL PROPERTY, DEEMED BENEFITTED AND THEREFORE WITHIN THE DISTRICT, OBJECTING TO THE PLAN MUST FILE AN OBJECTION AT THE OFFICE OF THE CITY CLERK WITHIN THIRTY DAYS OF THE CONCLUSION OF THE HEARING ON FORMS MADE AVAILABLE BY THE CLERK AND,

FURTHER, THAT IF (1) OWNERS OF AT LEAST FIFTY-ONE PERCENT OF THE ASSESSED VALUATION OF ALL THE TAXABLE REAL PROPERTY SITUATED WITHIN THE BOUNDARIES OF THE DISTRICT PROPOSED FOR CREATION OR EXTENSION, AS SHOWN UPON THE LATEST COMPLETED ASSESSMENT ROLL OF THE CITY, OR (2) AT LEAST FIFTY-ONE PERCENT OF THE OWNERS OF REAL PROPERTY WITHIN THE AREA INCLUDED IN THE DISTRICT PROPOSED FOR CREATION OR EXTENSION SO FILE THEIR OBJECTIONS, THE DISTRICT WILL NOT BE ESTABLISHED OR EXTENDED.

(B) THE LEGISLATIVE BODY SHALL CAUSE A COPY OF THE RESOLUTION TO BE PUBLISHED AT LEAST ONCE IN THE OFFICIAL PAPER OR A NEWSPAPER IN GENERAL CIRCULATION IN THE CITY, THE FIRST PUBLICATIONS TO BE NOT LESS THAN TEN NOR MORE THAN THIRTY DAYS BEFORE THE DAY SET FOR THE HEARING REQUIRED BY THIS SECTION. IN ADDITION, NOT LESS THAN FIFTEEN NOR MORE THAN FORTY-FIVE DAYS BEFORE THE DATE SET FOR THE HEARING THE LEGISLATIVE BODY SHALL CAUSE A COPY OF THE RESOLUTION TO BE MAILED TO EACH OWNER OF REAL PROPERTY WITHIN THE PROPOSED DISTRICT AT THE ADDRESS SHOWN ON THE LATEST CITY ASSESSMENT ROLL AND TO THE OCCUPANTS OF EACH BUILDING WITHIN THE PROPOSED DISTRICT, EXCEPT IN THE CASE OF A DISTRICT PROPOSED BY A PETITION OF VOTERS AS DESCRIBED IN PARAGRAPH TWO OF SUBDIVISION (A) OF SECTION SEVENTY-E OF THIS ARTICLE, WHERE THE LEGISLATIVE BODY SHALL TAKE STEPS TO APPRISE THE GENERAL PUBLIC OF THE PROPOSAL TO CREATE AND/OR EXTEND THE DISTRICT INCLUDING, BUT NOT LIMITED TO, NOTICE IN AND TO LOCAL NEWSPAPERS, CHURCHES, SYNAGOGUES, COMMUNITY, CIVIC AND MERCHANTS ASSOCIATIONS AND OTHERS IN A MANNER DESIGNED TO CREATE THE MAXIMUM FEASIBLE PUBLIC NOTICE OF SUCH HEARING.

(C) THE RESOLUTION MAY FURTHER STATE THE PLACE, OTHER THAN THE CITY CLERK'S OFFICE, WHERE THE DISTRICT PLAN MAY BE INSPECTED IN ADVANCE OF THE HEARING IF THE LEGISLATIVE BODY DETERMINES THAT, IN THE PUBLIC INTEREST, ANY ADDITIONAL PLACE OF INSPECTION IS NECESSARY OR DESIRABLE.

S 70-G. CREATION OR EXTENSION OF THE DISTRICT. (A) NOT EARLIER THAN THIRTY DAYS AFTER THE CONCLUSION OF THE LAST DAY OF THE PUBLIC HEARING HELD PURSUANT TO SECTION SEVENTY-F OF THIS ARTICLE, THE LEGISLATIVE BODY SHALL DETERMINE:

(1) WHETHER THE NOTICE OF HEARING WAS PUBLISHED AND MAILED AS REQUIRED BY LAW, AND IS OTHERWISE SUFFICIENT;

(2) WHETHER THE CREATION OR EXTENSION OF THE CITY PUBLIC UTILITY DISTRICT IS IN THE BEST INTEREST OF THE GENERAL WELFARE, AS DEFINED IN SECTION TWENTY-ONE OF THIS CHAPTER.

(B) (1) IF THE LEGISLATIVE BODY SHALL DETERMINE QUESTION TWO OF SUBDIVISION (A) OF THIS SECTION IN THE NEGATIVE, OR IF THE REQUISITE NUMBER OF OWNERS SHALL HAVE FILED THEIR OBJECTIONS AS PROVIDED IN SECTION SEVENTY-F OF THIS ARTICLE, THE LEGISLATIVE BODY SHALL ADOPT A RESOLUTION DISAPPROVING THE CREATION OR EXTENSION OF THE DISTRICT STATING THE REASONS FOR ITS DETERMINATION AND ENTER THE SAME IN THE MINUTES OF ITS PROCEEDINGS. THEREAFTER NO PLAN FOR THE CREATION OR EXTENSION OF A DISTRICT TO INCLUDE ANY PART OF THE PROPERTY OR AREA PROPOSED TO BE INCLUDED IN THE DISAPPROVED DISTRICT MAY BE PREPARED AS PROVIDED IN SECTION SEVENTY-E OF THIS ARTICLE UNTIL THE EXPIRATION OF AT LEAST ONE YEAR FROM THE DATE OF DISAPPROVAL.

(2) IF THE LEGISLATIVE BODY SHALL FIND THAT NOTICE WAS INCORRECTLY OR INSUFFICIENTLY GIVEN OR THAT ANY PORTION OF THE REAL PROPERTY WITHIN THE PROPOSED DISTRICT OR EXTENSION IS NOT BENEFITTED THEREBY OR THAT CERTAIN PROPERTY BENEFITTED THEREBY HAS NOT BEEN INCLUDED THEREIN, IT SHALL SPECIFY THE NECESSARY CHANGES, IF ANY, TO THE BOUNDARIES OF THE PROPOSED DISTRICT OR EXTENSION, AND IT SHALL CALL A FURTHER HEARING AT A DEFINITE TIME AND PLACE NOT LESS THAN FIFTEEN NOR MORE THAN TWENTY-FIVE DAYS AFTER THIS DETERMINATION. NOTICE OF THE FURTHER HEARING SHALL BE

PUBLISHED AND MAILED IN THE MANNER PROVIDED IN SECTION SEVENTY-F OF THIS ARTICLE EXCEPT THAT, WHERE BOUNDARIES ARE TO BE ALTERED, THIS NOTICE SHALL ALSO SPECIFY THE MANNER IN WHICH IT IS PROPOSED TO ALTER THE BOUNDARIES OF THE PROPOSED DISTRICT OR EXTENSION. THE FURTHER HEARING SHALL BE CONDUCTED IN THE SAME MANNER AS THE ORIGINAL HEARING.

(C) (1) IF AND WHEN THE LEGISLATIVE BODY SHALL DETERMINE IN THE AFFIRMATIVE ALL OF THE QUESTIONS SET FORTH IN SUBDIVISION (A) OF THIS SECTION, AND PROVIDED THAT THE REQUISITE NUMBER OF OWNERS SHALL NOT HAVE OBJECTED AS PROVIDED IN SECTION SEVENTY-F OF THIS ARTICLE, IT MAY ADOPT A LOCAL LAW APPROVING THE CREATION OR EXTENSION OF THE DISTRICT AS THE BOUNDARIES SHALL BE FINALLY DETERMINED.

(2) FORTHWITH UPON THE CREATION OR EXTENSION OF A CITY PUBLIC UTILITY DISTRICT, THE CITY SHALL FORWARD THE DISTRICT PLAN TO THE AUTHORITY AND MAY CONTRACT WITH THE AUTHORITY FOR THE PROVISION OF LIGHT, HEAT, POWER OR ENERGY TO ALL OR PART OF THE DISTRICT. THE CITY SHALL HAVE NO POWER TO CONTRACT INDEBTEDNESS ON BEHALF OF THE DISTRICT, BUT MAY FROM TIME TO TIME PROVIDE SUCH SERVICES TO THE AUTHORITY AS MAY BE REASONABLE AND NECESSARY FOR THE IMPLEMENTATION OF THE PURPOSES OF THIS ARTICLE, AND MAY PROVIDE FOR THE EXPENSES OF THE DISTRICT COUNCIL.

S 70-H. PUBLICATION; FILING; JUDICIAL REVIEW. (A) THE CITY CLERK SHALL CAUSE A CERTIFIED COPY OF THE LOCAL LAW ADOPTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE ESTABLISHING OR EXTENDING ANY DISTRICT TO BE DULY RECORDED IN THE CITY CLERK'S OFFICE WITHIN TEN DAYS AFTER SUCH LOCAL LAW BECOMES EFFECTIVE. WHEN SO RECORDED THIS LOCAL LAW SHALL BE PRESUMPTIVE EVIDENCE OF THE REGULARITY OF THE PROCEEDINGS FOR THE CREATION OR EXTENSION OF THE DISTRICT, OF THE PROCEEDINGS INSTITUTED TO CONTRACT FOR THE PROVISION OF SERVICES OR IMPROVEMENTS TO IT AND OF ALL OTHER ACTIONS TAKEN IN RELATION TO IT.

(B) WITHIN TEN DAYS AFTER THE LOCAL LAW BECOMES EFFECTIVE, THE CITY CLERK SHALL, IN ADDITION TO ANY OTHER FILING REQUIRED BY LAW, CAUSE A CERTIFIED COPY THEREOF TO BE FILED IN THE OFFICE OF THE STATE COMPTROLLER AT ALBANY, AND SHALL FORTHWITH CAUSE A COPY OF THE LOCAL LAW TO BE PUBLISHED AT LEAST ONCE IN THE OFFICIAL PAPER OR NEWSPAPER OF GENERAL CIRCULATION IN THE CITY.

(C) SUCH LOCAL LAW SHALL BE FINAL AND CONCLUSIVE UNLESS A PROCEEDING TO REVIEW IS COMMENCED IN ACCORDANCE WITH THIS SUBDIVISION. ANY INTERESTED PERSON AGGRIEVED BY ANY LOCAL LAW ADOPTED PURSUANT TO THE PROVISIONS OF THIS ARTICLE SHALL HAVE STANDING IN THE SUPREME COURT TO REVIEW THE VALIDITY OF SUCH LOCAL LAW, PROVIDED THE PROCEEDING IS COMMENCED WITHIN SIXTY DAYS FROM THE DATE OF THE PUBLICATION OF THE COPY OF THE LOCAL LAW PURSUANT TO SUBDIVISION (B) OF THIS SECTION. NO REVIEW SHALL BE HAD UNLESS THE PETITIONER SHALL GIVE AN UNDERTAKING APPROVED BY THE SUPREME COURT, OR A JUSTICE THEREOF, AS TO FORM, AMOUNT AND SUFFICIENCY OF SURETIES THAT, IN THE EVENT OF FAILURE TO FIND THE LOCAL LAW OR ANY PORTION THEREOF INVALID, HE WILL PAY TO THE CITY ALL COSTS AND EXPENSES AS ARE INCURRED BY IT ON ACCOUNT OF THE PROCEEDINGS, AS SHALL BE DETERMINED BY THE COURT.

S 70-I. CAPITAL IMPROVEMENTS. (A) AT ANY TIME AFTER THE CREATION OR EXTENSION OF THE CITY PUBLIC UTILITY DISTRICT AND THE EXECUTION OF AN INITIAL CONTRACT WITH THE AUTHORITY FOR THE PROVISION OF LIGHT, HEAT, POWER OR ENERGY TO ALL OR PART OF SUCH DISTRICT, THE CITY MAY AMEND SUCH CONTRACT WITH THE AUTHORITY, OR ENTER INTO NEW CONTRACTS WITH THE AUTHORITY, ON BEHALF OF THE DISTRICT, FOR NEW OR ADDITIONAL CAPITAL IMPROVEMENTS RELATED TO THE GENERAL PURPOSES OF THIS ARTICLE FOR SUCH CITY PUBLIC UTILITY DISTRICT. FOR THE PURPOSES OF THIS SECTION, A CAPITAL IMPROVEMENT SHALL MEAN ANY ASSET OF THE AUTHORITY PLACED WITHIN THE

BOUNDARIES OF A CITY PUBLIC UTILITY DISTRICT TO PROVIDE LIGHT, HEAT, POWER OR ENERGY TO A SPECIFIED CITY PUBLIC UTILITY DISTRICT AND/OR ONE OR MORE CONTIGUOUS DISTRICTS, AND NOT TO THE GENERAL BODY OF CUSTOMERS OF THE AUTHORITY OR OF ANY UTILITY AS A WHOLE, THE COST OR BASIS OF WHICH EXCEEDS THE SUM OF TWO HUNDRED FIFTY THOUSAND DOLLARS, THE USEFUL LIFE OF WHICH EXCEEDS ONE YEAR, AND THE UTILIZATION AND USE OF WHICH IS ABOVE AND BEYOND THE ORDINARY COURSE OF THE OPERATION AND MAINTENANCE OF FACILITIES USED FOR THE PROVISION OF LIGHT, HEAT, POWER OR ENERGY TO THE DISTRICT, INCLUDING ANY CONNECTIONS FOR SERVICE.

(B) FOLLOWING THE RECEIPT ON FEBRUARY FIRST OF EACH CALENDAR YEAR FROM THE AUTHORITY BY THE LOCAL LEGISLATIVE BODY OF EACH CITY OF A PROPOSED CONTRACT SETTING FORTH A CAPITAL IMPROVEMENT PLAN FOR EACH CITY PUBLIC UTILITY DISTRICT IN WHICH THE AUTHORITY IS RENDERING SERVICE OR, AS MAY BE THE CASE, A COPY OF SUCH PLAN FORWARDED BY THE AUTHORITY TO EACH AFFECTED CITY PUBLIC UTILITY DISTRICT COUNCIL AND NO LATER THAN MARCH FIRST OF EACH YEAR, EACH CITY PUBLIC UTILITY DISTRICT COUNCIL SHALL HOLD A PUBLIC HEARING ON SUCH ELEMENTS OF THE PLAN AS SHALL AFFECT THE CITY PUBLIC UTILITY DISTRICT AND, NO LATER THAN MARCH THIRTIETH OF THE CALENDAR YEAR, THE LOCAL LEGISLATIVE BODY SHALL HOLD A FURTHER PUBLIC HEARING ON THE CAPITAL IMPROVEMENT PLAN. NO LATER THAN APRIL FIFTEENTH OF THE CALENDAR YEAR, THE CITY PUBLIC UTILITY DISTRICT COUNCIL AND THE LOCAL LEGISLATIVE BODY SHALL SET FORTH SUCH MODIFICATIONS AND RECOMMENDATIONS IN THE CAPITAL IMPROVEMENT PLAN TO THE AUTHORITY AS THEY MAY DEEM REASONABLE. NO LATER THAN MAY FIFTEENTH OF EACH YEAR THE CITY SHALL CONTRACT WITH THE AUTHORITY FOR A CAPITAL IMPROVEMENT PLAN FOR SUCH CITY PUBLIC UTILITY DISTRICT OR DISTRICTS.

(C) WHERE THE CITY FAILS TO CONTRACT WITH THE AUTHORITY FOR A CAPITAL IMPROVEMENT PLAN FOR SUCH CITY PUBLIC UTILITY DISTRICTS BY MAY FIFTEENTH OF THE CALENDAR YEAR, THE AUTHORITY MAY MOVE IN A SUPREME COURT OF PROPER JURISDICTION, PURSUANT TO ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES, FOR SUCH ORDERS AS MAY BE NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE AND THE RIGHTS OF ANY HOLDERS OF THE AUTHORITY'S NOTES AND BONDS.

(D) THE DISTRICT COUNCIL SHALL HAVE THE POWER TO RECOMMEND, TOGETHER WITH CAPITAL IMPROVEMENTS AS DEFINED IN THIS SECTION TO THE LOCAL LEGISLATIVE BODY AND THE AUTHORITY, THE PROVISION OF ANY OTHER SERVICES OF A NATURE CONSISTENT WITH THE PURPOSES OF THIS ARTICLE, AND THE CITY AND THE AUTHORITY MAY PROVIDE SUCH ASSISTANCE TO THE DISTRICT COUNCIL AS MAY BE REASONABLY NECESSARY TO PREPARE AND SUBMIT SUCH RECOMMENDATIONS.

S 70-J. DISTRICT COUNCILS. (A) THERE SHALL BE A DISTRICT COUNCIL, WHICH SHALL BE A CORPORATION CREATED UNDER THE NOT-FOR-PROFIT CORPORATION LAW, FOR EACH CITY PUBLIC UTILITY DISTRICT ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE. SUCH COUNCIL MAY CONTAIN ONE OR MORE CLASSES OF MEMBERSHIP, VOTING OR NON-VOTING, AND THE CERTIFICATE OF INCORPORATION OR BY-LAWS OF SUCH COUNCIL SHALL PROVIDE FOR VOTING REPRESENTATION AMONG OWNERS OF PROPERTY, TENANTS, RATEPAYERS AND CITIZENS OF THE DISTRICT WHICH SHALL BE REASONABLY RELATED TO THE DISTRICT PLAN. THE MEMBERS OF THE BOARD OF DIRECTORS OF THE DISTRICT COUNCIL SHALL BE MEMBERS THEREOF AND SHALL INCLUDE, IN ADDITION, AT LEAST THREE MEMBERS APPOINTED BY THE FOLLOWING: ONE BY THE CHIEF EXECUTIVE OFFICER OF THE CITY, ONE BY THE CHIEF FINANCIAL OFFICER OF THE CITY AND ONE BY THE LOCAL LEGISLATIVE BODY, EXCEPT THAT, IN A CITY OF ONE MILLION OR MORE, THE THIRD ADDITIONAL MEMBER SHALL BE APPOINTED BY THE BOROUGH PRESIDENT OF THE BOROUGH IN WHICH THE DISTRICT IS LOCATED. SUCH ADDITIONAL THREE MEMBERS SHALL SERVE AS THE INCORPORATORS OF THE COUNCIL PURSUANT TO THE

NOT-FOR-PROFIT CORPORATION LAW. THE COUNCIL MAY BE INCORPORATED PRIOR TO THE EFFECTIVE DATE OF ANY DISTRICT ESTABLISHED PURSUANT TO THIS ARTICLE.

(B) THE DISTRICT COUNCIL SHALL HAVE THE POWER TO HEAR COMPLAINTS REGARDING THE PROVISION OF ANY SERVICES BY THE AUTHORITY TO THE DISTRICT, INVESTIGATE THE ENERGY, LIGHT, HEAT AND POWER NEEDS OF THE CITY PUBLIC UTILITY DISTRICT, HOLD PUBLIC HEARINGS AND MAKE RECOMMENDATIONS TO THE LOCAL LEGISLATIVE BODY AND THE AUTHORITY CONCERNING CAPITAL IMPROVEMENTS TO THE DISTRICT.

(C) FOR SUCH CONSIDERATION AS THE AUTHORITY AND/OR THE CITY MAY DEEM APPROPRIATE, THE AUTHORITY AND/OR THE CITY MAY CONTRACT WITH THE DISTRICT COUNCIL TO RENDER ANY SERVICES INCIDENT TO THE PROVISION OF LIGHT, HEAT, POWER AND ENERGY TO THE CITY PUBLIC UTILITY DISTRICT. THE DISTRICT COUNCIL SHALL BE DEEMED TO BE THE AGENT OF THE AUTHORITY FOR THE RENDITION OF SUCH SERVICES.

S 3. This act shall take effect immediately.