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

341

2013-2014 Regular Sessions

I N  S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the canal law, the public officers law, the state finance law, the navigation law, the transportation law, the economic development law, the environmental conservation law, the parks, recreation and historic preservation law, the retirement and social security law, and the public authorities law, in relation to transferring jurisdiction over the New York state canal system to the department of transportation; and to repeal certain provisions of the canal law, the transportation law and 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 Subdivision 21 of section 2 of the canal law is REPEALED and a new subdivision 21 is added to read as follows:

21. "DEPARTMENT" SHALL MEAN THE DEPARTMENT OF TRANSPORTATION.

S 2. Subdivision 23 of section 2 of the canal law, as added by chapter 167 of the laws of 2002, is amended and a new subdivision 24 is added to read as follows:

23. "Canalway trail" shall mean any multi-use recreational trail located on lands under the jurisdiction of the [corporation] COMMISSIONER. The exact boundaries and location of such trail and any portions or sections thereof shall be determined by the [corporation] COMMISSIONER except that the boundaries and location of such trail shall be determined in such a manner that no portion thereof shall be within the Adirondack Park.

24. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF TRANSPORTATION.

S 3. The article heading of article 1-a of the canal law, as added by chapter 766 of the laws of 1992, is amended to read as follows:

TRANSFER TO [NEW YORK STATE THRUWAY AUTHORITY] THE DEPARTMENT OF TRANSPORTATION

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

LBD01973-01-3

S 4. Section 5 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 5. Transfer of powers and duties relating to canals and canal lands to the [New York state thruway authority] DEPARTMENT OF TRANSPORTATION. The powers and duties of the [commissioner of transportation] AUTHORITY AND CORPORATION relating to the New York state canal system as set forth in articles one through and including fourteen[, except article seven,] of this chapter[, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation,] are hereby transferred to and merged with the [authority] DEPARTMENT, to be exercised by the [authority] COMMISSIONER on behalf of the people of the state of New York. [In addition, the commissioner of transportation and the chairman of the authority may, in their discretion, enter into an agreement or agreements transferring the powers and duties of the commissioner of transportation relating to any or all of the bridges and highways as set forth in article seven of this chapter, to be exercised by the authority on behalf of the people of the state of New York, and shall enter into an agreement or agreements for the financing, construction, reconstruction or improvement of lift and movable bridges on the canal system. Such powers shall be in addition to other powers enumerated in title nine of article two of the public authorities law. All of the provisions of title nine of article two of such law which are not inconsistent with this chapter shall apply to the actions and duties of the authority pursuant to this chapter. The authority shall be deemed to be the state in exercising the powers and duties transferred pursuant to this section but for no other purposes.]

S 5. Section 6 of the canal law, as added by chapter 766 of the laws of 1992, subdivisions 1, 3, and 4 and paragraph (b) of subdivision 6 as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 6. Transfer of canal lands and other assets. 1. The jurisdiction of the [commissioner of transportation] AUTHORITY AND CORPORATION over the New York state canal system and over all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of the New York state canal system, as set forth in articles one through and including fourteen[, except article seven,] of this chapter[, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation] are hereby transferred without consideration to the [authority] DEPARTMENT, to be held by the [authority] DEPARTMENT in the name of the people of the state of New York. [In addition the commissioner of transportation and the chairman of the authority may, in their discretion, enter into an agreement or agreements transferring jurisdiction over any or all of the bridges and highways set forth in article seven of this chapter, and any or all state assets, equipment and property, both tangible and intangible, owned or used in connection with the planning, development, construction, reconstruction, maintenance and operation of such bridges and highways, which shall be transferred without consideration to the authority, to be held by the authority through the corporation in the name of the people of the state of New York. Any other rights and obligations resulting from or arising out of the planning, development, construction, reconstruction, operation or maintenance of the New York state canal system shall be deemed assigned to and shall be exercised by

the authority through the corporation, except that the authority may designate the commissioner of transportation to be its agent for the operation and maintenance of the New York state canal system, provided that such designation shall have no force or effect after March thirty-first, nineteen hundred ninety-three. Such canal system shall remain the property of the state and under its management and control as exercised by and through the authority, through the corporation which shall be deemed to be the state for the purposes of such management and control of the canals but for no other purposes.]

2. The [department of transportation] AUTHORITY AND CORPORATION shall deliver to the [authority] DEPARTMENT all books, policies, procedures, papers, plans, maps, records, equipment and property of such [department] AUTHORITY OR CORPORATION pertaining to the functions transferred pursuant to this article.

3. All rules, regulations, acts, determinations, orders and decisions of the [commissioner of transportation and of the department of transportation] AUTHORITY AND CORPORATION pertaining to the functions transferred pursuant to this article in force at the time of such transfer shall continue in force and effect as rules, regulations, acts, determinations, orders and decisions of the [authority and corporation] COMMISSIONER until duly modified or abrogated by [such authority and corporation] THE COMMISSIONER.

4. Any business or other matters undertaken or commenced by the [commissioner of transportation] AUTHORITY, CORPORATION, COMMISSIONER, or the department [of transportation], including executed contracts, permits and other agreements, pertaining to or connected with the functions, powers, obligations and duties transferred pursuant to this article, and in effect on the effective date hereof, shall be conducted and completed by the [authority through the corporation] COMMISSIONER OR THE DEPARTMENT in the same manner and under the same terms and conditions and with the same effect as if conducted and completed by the [commissioner of transportation] AUTHORITY or the [department of transportation] CORPORATION.

5. No existing rights or remedies of the state, including the authority, shall be lost, impaired or affected by reason of this article.

6. [(a)] No action or proceeding pending on the effective date of this article, brought by or against the [commissioner of transportation] AUTHORITY or the [department of transportation] CORPORATION shall be affected by this article. Any liability arising out of any act or omission occurring prior to the effective date of the transfer of powers and duties authorized herein of the officers, employees or agents of the [department of transportation] AUTHORITY OR CORPORATION, or any other agency of the state, other than the [authority] COMMISSIONER OR THE DEPARTMENT, in the performance of their obligations or duties under the canal law, any other law of the state or any federal law, or pursuant to a contract entered into prior to the effective date of such transfer shall remain a liability of the [department of transportation] AUTHORITY AND CORPORATION or such other agency of the state and not of the [authority] COMMISSIONER OR DEPARTMENT.

[(b) Notwithstanding any provision to the contrary contained in paragraph (a) of this subdivision, the state shall indemnify and hold harmless the authority and corporation for any and all claims, damages, or liabilities, whether or not caused by negligence, including civil and criminal fines, arising out of or relating to any generation, processing, handling, transportation, storage, treatment, or disposal of solid or hazardous wastes in the canal system by any person or entity other

than the authority occurring prior to the effective date of the transfer of powers and duties authorized herein. Such indemnification shall extend to, without limitation, any releases into land, water or air, including but not limited to releases as defined under the federal comprehensive environmental response compensation and liability act of nineteen hundred eighty, occurring or existing prior to the effective date of this section; provided that the authority shall cooperate in the investigation and remediation of hazardous waste and other environmental problems.]

S 6. The article heading of article 2 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

POWERS OF THE [CANAL CORPORATION] DEPARTMENT

S 7. The section heading, the opening paragraph and subdivisions 8, 10 and 13 of section 10 of the canal law, as amended by chapter 335 of the laws of 2001, are amended to read as follows:

General powers and duties of the [corporation] COMMISSIONER relating to canals. The [corporation] COMMISSIONER shall:

8. Keep and maintain in good condition the canals, canal terminals and [corporation] equipment used in the maintenance and repair of the canal system.

10. Enforce compliance with laws, rules and regulations relating to posting of limited loads and clearances on all bridges over the canal system under the jurisdiction of the department [of transportation pursuant to section six and article seven of this chapter].

13. Cause a record to be made and filed ANNUALLY on January first[, in the corporation] of all expenditures during the previous fiscal year from moneys appropriated for the canal system.

S 8. The opening paragraph of subdivision 1 and subdivision 2 of section 11 of the canal law, as added by chapter 167 of the laws of 2002, are amended to read as follows:

The [corporation] DEPARTMENT may develop and implement an adopt-a-trail program, the purposes of which may be to reduce and remove litter and debris and to enhance the appearance and maintenance of the canalway trail and related facilities, as needed. Such program may include, but not be limited to:

2. Notwithstanding any inconsistent provision of law, the [corporation, authority, and commission, including any members, officers or employees thereof,] DEPARTMENT shall not be liable for damages suffered by any persons and/or organizations resulting from any actions or activities of such volunteers and/or volunteer organizations.

S 9. Section 21 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 21. Preparation contract, plans and estimates. The [corporation] DEPARTMENT shall make surveys and prepare plans and specifications for work in connection with the improvement, maintenance or repair of the canal system to be performed under contract. It shall ascertain with all practical accuracy the quantity and quality of all materials to be used and all other items of work to be included in the contract and shall make a detailed estimate of the cost of the same. The quantities contained in such estimate shall be used in determining the cost of the work according to the different proposals received.

S 10. Section 22 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 22. Supervision of contracts. The [corporation] DEPARTMENT shall provide for field supervision over improvement, maintenance or repair work on the canal system that is done under contract. The [corporation]

DEPARTMENT shall assign such engineers, inspectors and other engineering employees as may be necessary for control over the execution of the work embraced in the contract. [Such corporation] THE DEPARTMENT shall cause the preparation and approval of the estimates of the work accomplished, materials delivered, or other items embodied in the contract and the certificate of the amount of payment which may be due under the terms of the contract or legal modifications of the same. Upon the completion of any contract the [corporation] DEPARTMENT shall cause the preparation and approval of a certificate of acceptance, stating that the work has been well and faithfully performed in accordance with the terms and conditions of the contract and all legal modifications thereof.

S 11. Section 23 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 23. Record of measurements. The [corporation] DEPARTMENT shall require every engineer employed on canal engineering to enter in permanent field books a complete record of all surveys, field measurements and construction notes. These books shall be filed in the [corporation] DEPARTMENT and shall be available for public inspection under such conditions as the [corporation] DEPARTMENT may establish.

S 12. Section 24 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 24. Making and recording maps. There shall be kept on file in the office of the [corporation] DEPARTMENT complete maps of every canal now or hereafter to be built on which the boundaries of every parcel of land to which the state shall have a separate title shall be designated and the names of the former owner and date of each title entered. All such maps [heretofore] approved by the commissioner [of transportation or the corporation], or certified by such commissioner[, corporation] or by the state engineer or hereafter approved by the [corporation] COMMISSIONER to be correct, shall be presumptive evidence of the truth of the facts therein stated and of the ownership by the state of the lands therein described. Every such map when completed shall be approved and certified to as correct by the [corporation] COMMISSIONER. The original of said map shall be filed in the office of the [corporation] COMMISSIONER and copies thereof duly signed and certified as aforesaid shall be filed in the office of the department of state. Any such maps filed in the office of the clerk of a county in which such lands are located or in the office in such county where conveyances are required by law to be recorded shall constitute evidence to all persons of the state's title to and ownership in said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed, shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

S 13. Section 25 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 25. Making and recording of "Blue Line" maps. The commissioner [of transportation] shall cause the preparation of maps of the Erie, Oswego, Champlain and the Cayuga and Seneca canals as they existed prior to and independent of lands appropriated for barge canal purposes and of all lands belonging to the state adjacent thereto or connected therewith, and there shall be designated on such maps the boundaries of the lands to which the state holds title, and so far as possible the names of the owners of the adjoining lands. Every map when completed shall be approved and certified to as correct by the commissioner [of transportation] and be certified to as correct by the chief engineer. The original

of said map shall be filed in the office of the [corporation] COMMISSIONER and copies thereof, duly signed and certified as aforesaid, shall be filed in the office of the department of state. Each of said maps so filed shall be regarded as an original copy. A blue or white print copy of such map or portion of such map or maps as related or applies to any particular county of the state shall be transmitted to and filed in the office of the clerk of such county, or in the office in such county wherein conveyances are required by law to be recorded and such filing shall constitute a notice to all persons of the state's title to and ownership of said lands. A transcript of such maps certified as correct by the officer with whom such map or maps shall be filed shall be received as presumptive evidence of the state's title to the canal lands as of the date designated on such maps in all judicial or legal proceedings.

S 14. Section 30 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 30. Contracts for improvement, maintenance or repair of the canal system. Upon the completion and final approval of the plans and specifications for the improvement, maintenance or repair to the canal system, contracts therefor shall be executed IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE NINE OF THE STATE FINANCE LAW, PROVIDED, HOWEVER, THAT IF ARTICLE NINE OF THE STATE FINANCE LAW SHALL NOT BE APPLICABLE, CONTRACTS SHALL BE EXECUTED as provided herein.

1. Advertising for proposals. The [corporation] COMMISSIONER shall advertise for proposals in accordance with plans and specifications prepared by [it] THE DEPARTMENT for such improvement, maintenance or repair of the canal system as the [corporation] COMMISSIONER deems it expedient to have performed by contract. The advertisement shall be limited to a brief description of the work proposed to be done, with an announcement stating where the maps, plans and specifications may be seen, the terms and conditions under which the proposals will be received, the time and place where the same will be opened, the amount of the draft or certified check to accompany the proposal, and such other matters as the [corporation] COMMISSIONER may deem advisable to include therein. Such advertisement shall be published at least once in each week for two successive weeks in a newspaper published at the county seat of the county in which such canal work is to be performed and in such other newspapers as the [corporation] COMMISSIONER may designate. If no newspaper is published at such county seat, then the publication of the advertisement shall be in such newspaper or newspapers within the county as the [corporation] COMMISSIONER may select. If no newspaper is published in the county, the publication of the advertisement shall be in such newspaper or newspapers in an adjoining county as may be selected by the [corporation] COMMISSIONER. Failure of such newspaper, published in such county or adjoining county, to publish such advertisement as provided in this subdivision or as directed by the [corporation] COMMISSIONER shall not invalidate the publication of advertisement for proposals provided such advertisement is published in another newspaper or trade publication, which will be most likely to give adequate notice to contractors of the work contemplated and of the invitation to submit proposals therefor, at least once in each week for any two successive weeks preceding the date on which proposals described in such advertisement are to be received and opened.

2. Proposals. Each proposal shall specify the correct gross sum for which the work will be performed and shall also include the amount to be charged for each item specified on the proposal estimate sheet. The

[corporation] COMMISSIONER may prescribe and furnish forms for the submission of such proposals and may prescribe the manner of submitting the same which shall not be inconsistent herewith. Accompanying each proposal there shall be a certified check or bank cashier's check for the amount of the bid deposit, to be fixed by the [corporation] COMMISSIONER and specified in the advertisement for proposals. The checks of the two low bidders shall be deposited by the [corporation] COMMISSIONER in a special account. Provided, however, that if prior to or upon receipt of said checks by the [corporation] COMMISSIONER a bidder who is one of the two low bidders shall have duly filed a bond as hereinafter provided, the [corporation] COMMISSIONER shall forthwith return to said bidder his OR HER aforesaid check without depositing the same. If alternate proposals are taken, the checks of the two low bidders of all alternate proposals shall be deposited. All checks other than those of the two low bidders shall be returned promptly by the [corporation] COMMISSIONER. Notwithstanding the provisions of any general or special law, the money represented by the checks of the two low bidders shall be paid from the special account when the contractor has duly executed and delivered to the [corporation] COMMISSIONER the contract and the bond or bonds required by law for the performance of the work of a public improvement for the state of New York, or upon the rejection of all bids. The low bidder, in the discretion of the [corporation] COMMISSIONER, and the second low bidder, as a matter of right, may at any time after the opening of the respective proposals, file with the [corporation] COMMISSIONER a bond, the principal amount of which shall at least equal the amount of the respective bidder's check, theretofore deposited with his OR HER proposal, in the form prescribed by the [corporation] COMMISSIONER, with sufficient sureties, to be approved by the [corporation] COMMISSIONER, conditioned that the said bidder will execute a contract and furnish such performance or other bonds as may be required by law in accordance with the terms of the bidder's said proposal. If a bidder complies with [the aforesaid] SUCH provisions, the [corporation] COMMISSIONER shall forthwith return the money represented by the check of such bidder.

In case the bidder to whom the contract shall be awarded shall fail to execute such contract and bond, the moneys represented by such check shall be regarded as liquidated damages and shall be forfeited to the state and shall be deposited by the [corporation] COMMISSIONER with the commissioner of taxation and finance to the credit of the general fund. The gross sums indicated on the proposals when opened shall be publicly read. The [corporation] COMMISSIONER shall keep the bids for the several items of the proposals confidential until an award of the contract is made, after which the proposals shall be subject at all reasonable times to public inspection.

3. Award of contract. The contract for the improvement, maintenance or repair of any part of the canal system shall be awarded to the lowest responsible bidder, as will best promote the public interest. No contract shall be awarded to a bidder other than the lowest responsible bidder without the written approval of the comptroller. The lowest bid shall be deemed to be that which specifically states the lowest gross sum for which the entire work will be performed, including all the items specified in the estimate therefor. The lowest bid shall be determined by the [corporation] COMMISSIONER on the basis of the gross sum for which the entire work will be performed, arrived at by a correct computation of all the items specified in the estimate therefor at the unit prices contained in the bid.

4. Rejection of proposals. The [corporation] COMMISSIONER may reject any or all proposals and may advertise for new proposals as provided in this section, if, in [its] HIS OR HER opinion, the best interest of the state [and the corporation] will thereby be promoted.

5. Form of contract. The [corporation] COMMISSIONER shall prescribe the form of contract and may include [therein] such matters the [corporation] COMMISSIONER may deem advantageous to the state [and the corporation].

6. Bond of contractor. Each contractor before entering into a contract for such improvement, maintenance or repair of the canal system shall execute a bond in the form prescribed by the [corporation] COMMISSIONER, with sufficient sureties, to be approved by the [corporation] COMMISSIONER, on condition that it will perform the work in accordance with the terms of the contract and the plans and specifications, and that it will commence and complete the work within the time prescribed in the contract. The bond shall also provide against any direct or indirect damages that shall be suffered or claimed on account of such construction or improvement during the time thereof, and until the work is finally accepted.

7. Payments on contracts, state taxes. The contract shall provide for partial payments as the work progresses as hereinafter provided:

(a) Ten per centum shall be retained from each progress payment or estimate until the contract work is fifty per centum completed, after which no further moneys shall be retained from any progress payments or estimates paid thereafter, and when the entire contract work has been completed and accepted, the [corporation] COMMISSIONER shall, pending the payment of the final estimate, pay not to exceed fifty per centum of the amount of the retained percentage.

(b) Whenever in the judgment of the [corporation] COMMISSIONER the withholding of the retained percentage on account of the closing of the working season would be an injustice to the contractor, the [corporation] COMMISSIONER may, provided the district engineer certifies that the essential items in the contract have been completed in accordance with the terms of the contract and the provisions of this chapter, direct the district engineer to include in the final account such uncompleted items and pay therefor at the item prices in the contract upon the contractor depositing with the [corporation] COMMISSIONER securities equal to double the value of such uncompleted work. The deposit may be used by the [corporation] COMMISSIONER to complete the uncompleted portion of the contract and shall be returned to the contractor if it completes the uncompleted portion within a specified number of working days after it has been notified to proceed with the work.

(c) No certificates approving or authorizing a partial or final payment shall be made by the [corporation] COMMISSIONER until [it] HE OR SHE is satisfied that all laborers employed on the work have been paid for their services for the last payroll period preceding the said partial or final payment. The [corporation] COMMISSIONER may, if [it] HE OR SHE deems necessary, require an affidavit to such effect from the contractor or [it] HE OR SHE may depend on any other source which [it] HE OR SHE deems proper for such information.

(d) Contracts in force at the date of the enactment of this subdivision may, in the discretion of the [corporation] COMMISSIONER, be amended to provide for the withholding and the payments contemplated by the provisions of paragraph (a) of this subdivision, if the surety or sureties upon the performance and labor and material bonds given by a contractor upon any such contract shall consent in writing thereto.

(e) No such certificate authorizing or approving the first partial payment or any final payment to a foreign contractor shall be made unless such contractor shall furnish satisfactory proof that all taxes due the commissioner of taxation and finance by such contractor under the provisions of or pursuant to a law enacted pursuant to the authority of article nine, nine-A, twelve-A, twenty-one, twenty-two, twenty-eight, twenty-nine or thirty of the tax law have been paid. The certificate of the commissioner of taxation and finance to the effect that all such taxes have been paid shall be, for purpose of this paragraph, conclusive proof of the payment of such taxes. The term "foreign contractor" as used in this subdivision means, in the case of an individual, a person who is not a resident of this state, in the case of a partnership, one having one or more partners not a resident of this state, and in the case of a corporation, one not organized under the laws of this state.

8. Contingencies and extra work. Whenever the [corporation] COMMISSIONER determines that from any unforeseen cause the terms of any contract should be altered to provide for contingencies or extra work, [it] HE OR SHE may, if funds are available for payment of the cost thereof, issue an order on contract therefor to the contractor, a copy of which shall be filed with the director of the budget and the state comptroller. The estimated expenditure pursuant to the order on contract shall not increase the total amount of the primary contract until the estimated expenditure shall have been approved by the [corporation] COMMISSIONER and a duplicate of such approval shall have been filed with the comptroller. No such extra work shall be commenced or undertaken until the [corporation] COMMISSIONER has issued an order on contract as herein provided.

When such order on contract provides for similar items of work or materials which increase or decrease the itemized quantity provided for in the primary contract, the price to be paid therefor shall not exceed the unit bid price in the primary contract for such items. Agreed prices for new items of work or materials may be incorporated in the order on contract as the [corporation] COMMISSIONER may deem them to be just and fair and beneficial to the state[, including the corporation].

Whenever the [corporation] COMMISSIONER also determines that in the cases herein provided it is impracticable for [it] HE OR SHE to ascertain in advance the just and fair prices to be paid by the state for new items of work or materials, the order on contract therefor may provide for performance of the work and the furnishing of the materials and equipment, in which event the contractor shall keep and shall make available at all times to the [corporation] COMMISSIONER such accounting records, data and procedure as may be required by the [corporation] COMMISSIONER.

S 15. Section 31 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 31. Patented materials or articles. In the improvement, maintenance, or repair of the canal system, no patented material or article or any other material or article shall be specified, contracted for, or purchased, except under such circumstances that there can be fair and reasonable opportunity for competition, the conditions to secure which, shall be prescribed by the [corporation] COMMISSIONER.

S 16. Section 32 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 32. Performance of contracts. The performance of every contract for the improvement, maintenance or repair of the canal system shall be under the supervision and control of the [corporation] COMMISSIONER, and

it shall be [its] HIS OR HER duty to see that every such contract is performed in accordance with the provisions of the contract and with the plans and specifications forming a part thereof. If the [corporation] COMMISSIONER shall determine that the work upon any contract for the improvement, maintenance or repair of the canal system is not being performed according to the contract or for the best interest of the state[, including the corporation], the execution of the work by the contractor may be temporarily suspended by the [corporation] COMMISSIONER, who may then proceed with the work under [its] HIS OR HER own direction in such manner as will accord with the contract specifications and be for the best interest of the state [including the corporation,]; or [it] HE OR SHE may terminate the contractor's employment under the contract while it is in progress, and thereupon, proceed with the work, in affirmance of the contract, by contract negotiated or publicly let, by the use of [its] HIS OR HER own forces, by calling upon the surety to complete the work in accordance with the plans and specifications or by a combination of any such methods; or [it] HE OR SHE may cancel the contract and readvertise and relet the work as provided in section thirty of this article. Any excess in the cost of completing the contract beyond the price for which it was originally awarded shall be charged to and paid by the contractor failing to perform the work or by such contractor's surety. Where the estimate for the completion of a cancelled contract is in excess of the balance of the amount originally set aside by the state [including the corporation,] to provide for the improvement, maintenance or repair of the canal system, or a part thereof, together with any amount otherwise provided, the [corporation] COMMISSIONER is authorized to set aside from any funds available for the improvement, maintenance or repair of the canal system, or a part thereof, an additional sum equal to such excess and to pay such excess in the first instance, pending recovery of excess cost from the defaulting contractor and surety, as provided in this section. Every contract for the improvement, maintenance or repair of the canal system, or a part thereof, shall reserve to the [corporation] COMMISSIONER the right to suspend or cancel the contract as above provided, and to complete the work thereunder by contract negotiated or publicly let or by the use of [its] HIS OR HER own forces, or affirm the contract and thereupon to complete the work thereunder according to any of the methods above provided as the [corporation] COMMISSIONER may determine.

S 17. Section 33 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 33. Acceptance of work. Upon the completion of the improvement, maintenance or repair of any part of the canal system under a contract let, as provided in this article, the [corporation] COMMISSIONER shall cause the same to be inspected, and upon the filing [in the office of the corporation] WITH THE DEPARTMENT of a certificate stating that the work has been well and faithfully performed, in accordance with the terms of the contract, and all legal modifications thereof, the work shall be deemed accepted and certificates for final payment on the contract executed.

S 18. Section 34 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 34. Exemption of materials or equipment from execution. All materials or equipment furnished or partly procured on a defaulted contract with the [corporation] COMMISSIONER, shall be exempt from execution, but the [corporation] COMMISSIONER shall pay the moneys due for such material or equipment to any judgment creditor of the contractor under whose

execution such materials or equipment might otherwise have been sold, on production to [it] HIM OR HER of due proof that such execution would have so attached, and such payments shall be valid payments on the contract.

S 19. Section 40 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 40. Acquisition of property. 1. The acquisition of property necessary for purposes of the improvement, use, maintenance, control, management or repair of the canal system, shall be pursuant to the provisions of the eminent domain procedure law by the [corporation or by the] commissioner [of transportation at the request of the corporation].

2. The commissioner [of transportation or the corporation as the case may be,] shall cause to be prepared an accurate acquisition map of any property which he or [it] SHE may deem necessary for purposes connected with the canal system or of any property in and to which he or [it] SHE may deem the acquisition or exercise of an easement, interest or right to be necessary for such purposes, indicating and describing in each case the particular easement, interest or right. On the approval of such map by the commissioner [of transportation or the corporation as the case may be,] he or [it] SHE shall acquire such property, easements, interests or rights pursuant to the provisions of the eminent domain procedure law.

3. If the [corporation] COMMISSIONER shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that changes, alterations or modifications of such map as filed in the [main office of the corporation] DEPARTMENT should be made, the [corporation] COMMISSIONER shall, subject to the provisions of article two of the eminent domain procedure law, if applicable, direct the preparation of an amended map, either by preparing a new map or by making changes on the original tracing of such map, with a notation indicating such changes. On the approval of such amended map by the [corporation] COMMISSIONER, it shall be filed in the [main office of the corporation] DEPARTMENT in the same manner as the original map was filed, and the amended map shall thereupon in all respects and for all purposes supersede the map previously filed.

4. If the [corporation] COMMISSIONER shall determine, prior to the filing of such copy of the map in the office of the county clerk or register as aforesaid, that such map should be withdrawn, the [corporation] COMMISSIONER shall file a certificate of withdrawal in the offices of the [corporation] DEPARTMENT and department of law. Upon the filing of such certificate of withdrawal, the map to which it refers shall be canceled and all rights thereunder shall cease and terminate.

5. The commissioner [of transportation or the corporation as the case may be,] shall deliver to the attorney general a copy of such acquisition map whereupon it shall be the duty of the attorney general to advise and certify to the commissioner [of transportation or the corporation] the names of the owners of the property, easements, interests or rights described in the said acquisition map, including the owners of any right, title or interest therein pursuant to the requirements of section four hundred three of the eminent domain procedure law.

6. If, at or after the vesting of title to such property in the people of the state of New York as provided for in the eminent domain procedure law, the commissioner [of transportation or the corporation as the case may be] shall deem it necessary to cause the removal of an owner or other occupant from such property [it] HE OR SHE may cause such owner or other occupant to be removed therefrom by proceeding in accordance with

section four hundred five of the eminent domain procedure law. The proceedings shall be brought in the name of the commissioner [of transportation or the corporation as agent of the state]. If any person proceeded against shall contest the petition by an answer, the attorney general shall be notified, and he OR SHE thereafter shall represent the petitioner in the proceedings. No execution shall issue for costs, if any awarded against the state[,] OR the commissioner [of transportation or the corporation], but they shall be part of the costs of the acquisition and be paid in like manner. Proceedings may be brought separately against one or more of the owners or other occupants of a property, or one proceeding may be brought against all or several of the owners or other occupants of any or all property within the territorial jurisdiction of the same justice or judge; and judgment shall be given for immediate removal of persons defaulting in appearance or in answering, or withdrawing their answers, if any, without awaiting the trial or decision of issues raised by contestants, if any.

7. Upon making any agreement provided for in section three hundred four of the eminent domain procedure law, the commissioner [of transportation or the corporation as the case may be] shall deliver to the comptroller such agreement and a certificate stating the amount due such owner or owners thereunder on account of such appropriation of his, HER or their property and the amounts so fixed shall be paid pursuant to all relevant provisions of the public authorities law, the eminent domain procedure law and the state finance law.

8. Application for reimbursement of incidental expenses as provided in section seven hundred two of the eminent domain procedure law shall be made to the [corporation] DEPARTMENT upon forms prescribed by the [corporation] COMMISSIONER and shall be accompanied by such information and evidence as the [corporation] COMMISSIONER may require. Upon approval of such application, the [corporation] COMMISSIONER shall deliver a copy thereof, to the comptroller together with a certificate stating the amount due thereof, and the amount so fixed shall be paid out of funds available for the acquisition of property under this section.

9. The [corporation] COMMISSIONER shall establish and may from time to time amend rules and regulations authorizing the payment of actual reasonable and necessary moving expenses of occupants of property acquired pursuant to this section; of actual direct losses of tangible personal property as a result of moving or discontinuing a business or farm operation, but not exceeding an amount equal to the reasonable expenses that would have been required to relocate such property, as determined by the [corporation] COMMISSIONER; and actual reasonable expenses in searching for a replacement business or farm; or in hardship cases for the advance payment of such expenses and losses. For the purposes of making payment of such expenses and losses only the term "business" means any lawful activity conducted primarily for assisting in the purchase, sale, resale, manufacture, processing or marketing of products, commodities, personal property or services by the erection and maintenance of an outdoor advertising display or displays, whether or not such display or displays are located on the premises on which any of the above activities are conducted. Such rules and regulations may further define the terms used in this subdivision. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of residential property may elect to accept a moving expense allowance, plus a dislocation allowance, determined in accordance with a schedule prepared by the [corporation] COMMISSIONER and made a part of

such rules and regulations. In lieu of such actual reasonable and necessary moving expenses, any such displaced owner or tenant of commercial property who relocates or discontinues his OR HER business or farm operation may elect to accept a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, except that such payment shall be not less than two thousand five hundred dollars nor more than ten thousand dollars. In the case of a business, no such fixed relocation payment shall be made unless the [corporation] COMMISSIONER finds and determines that the business cannot be relocated without a substantial loss of its existing patronage, and that the business is not part of a commercial enterprise having at least one other establishment, which is not being acquired by the state or the United States, which is engaged in the same or similar business. In the case of a business which is to be discontinued but for which the findings and determinations set forth above cannot be made, the [corporation] COMMISSIONER may prepare an estimate of what the actual reasonable and necessary moving expenses, exclusive of any storage charges, would be if the business were to be relocated and enter into an agreed settlement with the owner of such business for an amount not to exceed such estimate in lieu of such actual reasonable and necessary moving expenses. Application for payment under this subdivision shall be made to the [corporation] DEPARTMENT upon forms prescribed by [it] THE COMMISSIONER and shall be accompanied by such information and evidence as the [corporation] COMMISSIONER may require. Upon approval of such application, the [corporation] COMMISSIONER shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of the state treasury after audit by the comptroller from moneys appropriated for the acquisition of property under this section. As used in this subdivision, the term "commercial property" shall include property owned by an individual, family, partnership, corporation, association or a nonprofit organization and includes a farm operation. As used in this subdivision, the term "business" means any lawful activity, except a farm operation, conducted primarily for the purchase, sale, lease and rental of personal and real property, and for the manufacture, processing or marketing of products, commodities, or any other personal property; for the sale of services to the public; or by a nonprofit organization.

10. Authorization is hereby given for the reimbursement to the person or other entity entitled thereto, as determined by the [corporation] COMMISSIONER, of an amount, separately computed and stated, representing the following incidental expenses to the owner of property acquired pursuant to this section:

(a) Any recording fees, transfer taxes and other similar expenses in connection with the acquisition of the property by the state[, including the corporation,] or in connection with the transfer of the property to the state[, including the corporation]; and

(b) Any penalty costs, incurred by the owner of property acquired by the state[, including the corporation,] for prepayment of any pre-existing recorded mortgage entered into in good faith encumbering such property.

In the event that there shall be a final judgment by a court of competent jurisdiction that the commissioner [of transportation or the corporation as the case may be,] was not legally authorized to acquire property, or a portion of such property, pursuant to this section; or the commissioner [or the corporation] denies that there was any taking of property, makes no offer to settle the value of the claim for such prop-

erty and there shall be a final judgment by a court of competent jurisdiction that the commissioner [or the corporation] did in fact take such property; or the procedure to acquire such property is abandoned by the commissioner [or the corporation]; authorization is hereby given for the reimbursement to the person or other entity entitled thereto, as determined by the commissioner [or the corporation], of an amount, separately computed and stated, for reasonable costs, disbursements and expenses, including reasonable attorney, appraisal and engineering fees, actually incurred by such person or other entity because of the acquisition procedure.

Application for either of such reimbursements shall be made to the [corporation] DEPARTMENT upon forms prescribed by [it] THE COMMISSIONER and shall be accompanied by such information and evidence as the [corporation] COMMISSIONER may require. Upon approval of such application, the [corporation] COMMISSIONER shall deliver a copy thereof to the comptroller together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for this purpose.

11. Authorization is hereby given to the [corporation] COMMISSIONER to make supplemental relocation payments, separately computed and stated, to displaced owners and tenants of residential property acquired pursuant to this section who are entitled thereto, as determined by such [corporation] COMMISSIONER. The [corporation] COMMISSIONER may establish and from time to time amend rules and regulations providing for such supplemental relocation payments. Such rules and regulations may further define the terms used in this subdivision. In the case of property acquired pursuant to this section which is improved by a dwelling actually owned and occupied by the displaced owner for not less than one hundred eighty days immediately prior to initiation of negotiations for the acquisition of such property, such payment to such owner shall not exceed fifteen thousand dollars. Such payment shall be the amount, if any, which, when added to the acquisition payment equals the average price, established by the [corporation] COMMISSIONER on a class, group or individual basis, required to obtain a comparable replacement dwelling that is decent, safe and sanitary to accommodate the displaced owner, reasonably accessible to public services and places of employment and available on the private market, but in no event shall such payment exceed the difference between acquisition payment and the actual purchase price of the replacement dwelling. Such payment shall include an amount which will compensate such displaced owner for any increased interest costs which such person is required to pay for financing the acquisition of any such comparable replacement dwelling. Such amount shall be paid only if the dwelling acquired pursuant to this section was encumbered by a bona fide mortgage which was a valid lien on such dwelling for not less than one hundred eighty days prior to the initiation of negotiations for the acquisition of such dwelling. Such amount shall be equal to the excess in the aggregate interest and other debt service costs of that amount of the principal of the mortgage on the replacement dwelling which is equal to the unpaid balance of the mortgage on the acquired dwelling, over the remaining term of the mortgage on the acquired dwelling, reduced to discounted present value. The discount rate shall be the prevailing interest rate paid on savings deposits by commercial banks in the general area in which the replacement dwelling is located. Any such mortgage interest differential payment shall, notwithstanding the provisions of section twenty-six-b of the general construction law, be in lieu of and in full satisfaction of the require-

ments of such section. Such payment shall include reasonable expenses incurred by such displaced owner for evidence of title, recording fees and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses. Such payment shall be made only to a displaced owner who purchases and occupies a replacement dwelling which is decent, safe and sanitary within one year subsequent to the date on which he OR SHE is required to move from the dwelling acquired pursuant to this section or the date on which he OR SHE receives from the state final payment of all costs of the acquired dwelling, whichever occurs later, except advance payment of such amount may be made in hardship cases. In the case of property acquired pursuant to this section from which an individual or family, not otherwise eligible to receive a payment pursuant to the above provisions of this subdivision, is displaced from any dwelling thereon which has been actually and lawfully occupied by such individual or family for not less than ninety days immediately prior to the initiation of negotiations for the acquisition of such property, such payment to such individual or family shall not exceed four thousand dollars. Such payment shall be the amount which is necessary to enable such individual or family to lease or rent for a period not to exceed four years, a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities and reasonably accessible to his OR HER place of employment, but shall not exceed four thousand dollars, or to make the down payment, including reasonable expenses incurred by such individual or family for evidence of title, recording fees, and other closing costs incident to the purchase of the replacement dwelling, but not including prepaid expenses, on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities, but shall not exceed four thousand dollars, except if such amount exceeds two thousand dollars, such person must equally match any such amount in excess of two thousand dollars, in making the down payment. Such payments may be made in installments as determined by the [corporation] COMMISSIONER. Application for payment under this subdivision shall be made to the [corporation] DEPARTMENT upon forms prescribed by [such corporation] THE COMMISSIONER and shall be accompanied by such information and evidence as the [corporation] COMMISSIONER may require. Upon approval of such application, the [corporation] COMMISSIONER shall deliver a copy thereof to the comptroller, together with a certificate stating the amount due thereunder, and the amount so fixed shall be paid out of funds available for such purpose.

12. The owner of any property, easements, interests or rights appropriated, may present to the court of claims a claim for the value of such property appropriated and for legal damages as provided by law for the filing of claims with the court of claims. Payment of such awards and judgments of the court of claims shall be made in the manner now prescribed by law.

13. If the work of improvement, maintenance, control, management or repair of the canal system causes damage to property not acquired as above provided, the state shall be liable therefor, but this provision shall not be deemed to create any liability not already existing by statute. Claims for such damage may be adjusted by the [corporation] COMMISSIONER, if the amounts thereof can be agreed upon with the persons making such claims, and any amount so agreed upon shall be paid as a

part of the cost of such improvement, maintenance, control, management or repair as prescribed by this section. If the amount of any such claim is not agreed upon, such claim may be presented pursuant to the eminent domain procedure law to the court of claims which is hereby authorized to hear such claim and determine if the amount of such claim or any part thereof is a legal claim against the state, and, if it so determines, to make an award and enter judgment thereon against the state, provided, however, that such claim is filed with the court of claims within three years after the accrual of such claim.

14. Notwithstanding any other provision of this section, the [corporation or the] commissioner [of transportation at the request of the corporation] shall have the power to acquire by grant or purchase, in the name of the people of the state of New York, any property which he or [the corporation] SHE deems necessary for any of the purposes provided for in this section, and payment therefor, if any, shall be made in the manner prescribed in this section for the payment of adjusted appropriation claims, provided, however, that no real property shall be so acquired unless the title thereto shall be approved by the attorney general.

15. The expense of the acquisition of property, including the cost of making surveys, preparing descriptions and maps of property to be acquired, and of administrative duties in connection therewith, serving notices of appropriation, publication, making appraisals and agreements and of searches ordered and examinations and readings and approval of titles made by the attorney general, and expenses incurred by the [corporation or the] commissioner [of transportation at the request of the corporation] and attorney general in proceedings for the removal of owners or occupants, shall be deemed a part of the cost of operation of the respective offices where such employees are engaged or of the department having charge of such matters and shall be paid from moneys appropriated for the operation of such offices. If a special fund has been set up to provide for the acquisition of property, then such expense involved may be made payable from such fund.

16. Notwithstanding the provisions of any general, special or local law, the [corporation or the] commissioner [of transportation at the request of the corporation], his or [its] HER officers, agents or contractors when engaged on work connected with the canal system, as described in subdivision one of this section, may, pursuant to the provisions of the eminent domain procedure law, enter upon any property for the purpose of making surveys, test pits, test borings, or other investigations and also for temporary occupancy during construction. Claims for any damage caused by such entry, work or occupation not exceeding two thousand five hundred dollars may be adjusted by agreement by the [corporation or the] commissioner [of transportation at the request of the corporation] with the owner of the property affected as determined by him or [such corporation] HER by reasonable investigation without appropriating such property. Upon making any such adjustment and agreement, the [corporation or the] commissioner [of transportation] shall deliver to the comptroller such agreement and a certificate stating the amount due such owner and the amount so fixed shall be paid out of the funds available for such purpose.

17. If the [corporation] COMMISSIONER shall determine subsequent to the acquisition of a temporary easement right in property and subsequent to the filing of a description and map of such property in the office of the county clerk or register, as aforesaid, that the purposes for which such easement right was acquired have been accomplished and that the use

and occupancy of said property for canal purposes are no longer necessary, and that, therefore, the term of such easement should be further limited, or if the appropriation of such easement was for an indefinite period, that such period should be fixed and determined, or that the period of such easement has by its terms expired, the [corporation] COMMISSIONER shall make [its] HIS OR HER certificate that the use and occupancy of such property for canal purposes are no longer necessary, that the property in which such easement right was acquired is surrendered back to the affected owner of said property and that such easement right is thereupon terminated, released and extinguished. The [corporation] COMMISSIONER shall cause a copy of such certificate to be filed in the office of the department of state. Upon the filing of such certificate in the office of the department of state all rights acquired by the state in such property shall cease and determine. The [corporation] COMMISSIONER shall cause a copy of such certificate together with notice of the filing thereof in the office of the department of state to be mailed to the owner or owners of the property affected, as certified by the attorney general, if the place of residence of such owner or owners is known or can be ascertained by a reasonable effort. A further copy of such certificate and notice of filing shall be filed in the office of the recording officer of each county wherein the property affected is situated. On the filing of such certificate and notice with such officer it shall be the duty of such officer to record same in the books used for recording deeds in the office of such officer.

18. Notwithstanding any other provision of this section, the [corporation] COMMISSIONER shall have the power to acquire by grant or purchase, in the name of the people of the state of New York, any property which [it] HE OR SHE deems necessary for any of the purposes provided for in this section and may also acquire for such purposes from the Palisades interstate park commission, in the name of the people of the state of New York, such lands and such easements, licenses, permits and other rights over lands as the said commission is authorized to grant, sell, exchange or convey. When the acquisition by appropriation, grant or purchase of property deemed necessary for canal purposes would result in substantial consequential damages to the owner's remaining property, due to loss of access, severance or control of access, the [corporation] COMMISSIONER, for and on behalf of the people of the state of New York, may acquire by purchase or grant all or any portion of such remaining property. Payment therefor, if any, shall be made in the manner prescribed in this section for the payment of adjusted appropriation claims, provided, however, that no real property shall be so acquired unless the title thereto shall be approved by the attorney general.

S 20. Section 41 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 41. Acquisition of cemeteries. Whenever in the judgment of the [corporation] COMMISSIONER, it is necessary for the purposes of improving, maintaining or repairing the canal system, to appropriate any property occupied by graves, burial places, cemeteries or other places of interment of human remains, the [corporation] COMMISSIONER may acquire such property in the manner and by the method prescribed by this article. [It] HE OR SHE shall cause the removal of all such remains to any other cemetery or burial place, whether private or public, as the board of trustees or governing body of such burial place or burial ground shall designate. All removals and transportation of such human remains shall be done in accordance with the provisions of the public health

law. Whenever any person or persons legally entitled to direct as to the disposition of any human remains exhumed or to be exhumed from any cemetery, burial place or graves as herein provided, desires to remove the same for reinterment to any burial plot or cemetery not within the same county from which such remains were exhumed, such person or persons so entitled to designate such other burial place or plot shall be permitted to remove such exhumed remains from such county subject to the written consent of the [corporation] COMMISSIONER and provisions of the public health law, but no portion of the expense of such transportation or burial in another county shall be borne by the state [or the corporation].

S 21. Section 42 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 42. Removal of encroachments. The [corporation] COMMISSIONER is authorized to cause to be removed from canal property any building, part of a building or structure erected, placed, maintained or otherwise occupying such canal property, if, in [its] HIS OR HER opinion, the removal is necessary for the improvement, use, maintenance, control, management, repair or operation of the canal system. It shall be the duty of any person owning or maintaining such a building, part of a building or structure to remove the same within thirty days from the service by the [corporation] COMMISSIONER upon said person of a notice ordering its removal. Upon the failure of the person so ordered to remove the building, part of a building or structure, the [corporation] COMMISSIONER may, without liability on the part of the state [or the corporation], take whatever action [it] HE OR SHE may deem necessary to cause the removal. Service of the order of removal must be personal if the person to be served can be found within the state. If the [corporation] COMMISSIONER shall not be able to serve such notice or cause the same to be served on the [said] SUCH person within the state after making a reasonable effort so to do, service may be made by attaching such notice to the [said] SUCH building, part of a building or structure.

S 22. Section 43 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 43. Exchange of property. In order to facilitate the acquisition of property as defined in this article, and which, in the judgment of the [corporation] COMMISSIONER, will be in the public interest and necessary for canal purposes, payment for such property may be made by means of an exchange therefor of property found to be no longer necessary or useful as a part of the barge canal system, or as an aid to navigation thereon, or for barge canal terminal purposes. The property to be so acquired shall be of at least equal value to that of such property to be exchanged. The [corporation] COMMISSIONER is authorized and empowered to enter into an agreement with the owner or owners of such property to be so acquired, upon such terms and conditions as to such [corporation] COMMISSIONER shall seem appropriate and proper to accomplish such purpose.

In all such cases, the property so to be exchanged shall first be declared abandoned by official order of the [corporation] COMMISSIONER which order shall set forth the benefits to be obtained by such exchange. In such abandonment it shall be unnecessary to conform to the provisions for abandonment made in section fifty-one of this chapter. The agreement and the title to the property to be acquired shall be subject to the approval of the attorney-general. Upon the approval of title by the attorney-general, the [corporation] COMMISSIONER is author-

ized and empowered to execute in the name of the people of the state of New York, a quit-claim deed to effectuate such exchange, which shall be subject to the approval of the attorney-general. The deed so executed, before becoming effective, shall be recorded in the office of the secretary of state. Compensation on account of excess value if any, of the lands so acquired shall be adjusted and paid in the manner provided by section forty of this article, as in the case of property taken by appropriation.

S 23. Section 50 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 50. Authority to abandon canal lands. 1. Authority is hereby conferred upon the [corporation] COMMISSIONER to abandon any portion of barge canal lands, barge canal terminal lands, or old canal lands and appertaining structures constituting the canal system prior to the barge canal improvement, which have or may become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. This authority, however, shall not include the abandonment of a barge canal terminal unless such terminal has been by a special act of the legislature previously determined to have become no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes.

2. Abandonments authorized pursuant to this section shall be subject to the provisions of subdivision seventeen of section ten of this chapter.

S 24. Section 51 of the canal law, as amended by chapter 44 of the laws of 2009, is amended to read as follows:

S 51. Method of abandonment. Prior to the exercising of such authority of abandonment, however, the [corporation] COMMISSIONER shall cause a notice of any proposed abandonment to be transmitted to the commission and to be published once each week for three successive weeks in a newspaper published in the county wherein such lands are located, except that such publication shall appear in a newspaper published in the municipality or locality wherein such lands are located when there is a newspaper published in such municipality or locality. Such notice shall describe the lands proposed to be abandoned with sufficient certainty to identify them and invite interested parties to file written statements either supporting or opposing the proposed abandonment. Upon the expiration of the period of publishing said notice, when it is the case that the assessment for such lands proposed for abandonment is equal to or greater than fifty thousand dollars, the [corporation] COMMISSIONER shall hold a hearing at which evidence or further information may be submitted. A record shall be made of all evidence submitted at such hearing. If no hearing shall appear to the [corporation] COMMISSIONER to be warranted or subsequent to such hearing, should one be held, the [corporation] COMMISSIONER may in [its] HIS OR HER discretion declare such lands abandoned for the purposes of the canal system. The [corporation] COMMISSIONER shall thereupon issue an official order abandoning the lands for canal purposes together with a map and description of the lands abandoned and dispose of any portion of canal lands so abandoned. Any money realized from the sale of such land shall be deposited into the canal fund.

S 25. Section 53 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 53. Sale of abandoned lands for railroad bridges. Whenever any canal lands, as defined in article one of this chapter, are required in

connection with any railroad bridge which has been or which is to be constructed, reconstructed or raised by or for a railroad corporation over that portion of the barge canal, which has been or which will be improved by the use of moneys allotted or to be allotted to the state by the federal government in accordance with chapter six hundred eighty-eight of the laws of nineteen hundred thirty-four, the [corporation] COMMISSIONER may issue an official order abandoning the lands for canal purposes. Upon a written request by the railroad corporation, and notwithstanding the provisions of any general or special law, the [corporation] COMMISSIONER is authorized to grant and convey such land to said railroad corporation for and on behalf of the people of the state of New York for the purposes mentioned and for a nominal or other consideration and upon such terms and conditions which he OR SHE shall deem to be beneficial to the state. Such instrument of grant and conveyance shall become effective when it is recorded in the office of the secretary of state. Any moneys realized from the sale of such land shall be deposited into the canal fund.

S 26. Section 54 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 54. Abandonment and sale of hydropower easements; agreements with hydropower developers. 1. Notwithstanding subdivision two of section three or section fifty of the public lands law or section fifty, fifty-one or fifty-two of this article, upon request of a person licensed under Part I of the Federal Power Act (16 USC S 791a-823a) to develop and operate a hydropower project at a site on the barge canal system, the [corporation] COMMISSIONER may adopt an order abandoning a hydropower easement in barge canal system lands and waters which are within the boundaries of such federally licensed project, upon finding the property rights under such easement to be no longer necessary or useful as a part of the barge canal system, as an aid to navigation thereon, or for barge canal terminal purposes. Upon adoption of such order, and with the approval of the governor, the [corporation] COMMISSIONER may sell and convey such easement at private sale to such licensed developer. Such hydropower easements shall be sold for a price to be determined by the [corporation] COMMISSIONER taking into consideration the value of obligations to be assumed by such licensed developer, the value of the rights granted to such developer to use canal system lands, waters and facilities for hydropower project purposes and any other appropriate factors.

2. Any hydropower easement abandoned, sold and conveyed pursuant to subdivision one of this section shall be limited as follows:

(a) The easement shall convey only those rights necessary and convenient for the development and generation of hydropower pursuant to the provisions of the applicable federal hydropower license and only within the boundaries of the hydropower project as licensed.

(b) The easement shall be subservient to the fee retained by the state.

(c) The easement shall not give the owner the right to interfere with, either by act or omission, the management and control by the state[, through the corporation,] of the barge canal system.

(d) The easement shall provide that it shall revert to the state under terms and conditions to be determined by the [corporation] COMMISSIONER in the event that the site ceases to be used for purposes of hydropower development and generation.

3. The [corporation] COMMISSIONER may also enter into agreements with such a licensed developer regarding the division of maintenance respon-

sibility for structures, facilities or other property which serve both hydropower generation and barge canal system purposes and regarding other matters concerning joint operation at the site. Such agreements may provide for the payment to the [corporation] DEPARTMENT of reasonable compensation for services rendered by the [corporation] DEPARTMENT which assist or otherwise further the development of hydropower on the barge canal system. In addition, the [corporation] COMMISSIONER, subject to the approval of the director of the budget, may enter into a written agreement with a licensed developer or operator at any site concerning the sharing of costs for a major capital improvement or improvements at such site. Should the contract for such improvement or improvements be let and awarded by the [corporation] COMMISSIONER, the state comptroller is authorized to receive and accept from the developer or operator, the sum or sums specified in such agreement and to disburse the same along with state funds appropriated for the purpose of such capital improvement or improvements.

4. Any revenue realized from the sale or lease of hydropower easements shall be deposited into the canal fund.

S 27. Section 55 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 55. Authority to lease land. 1. The [corporation] COMMISSIONER is hereby authorized, after review and comment by the commission as to consistency with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter and section three hundred eighty-two of the public authorities law, to enter into leases of canal lands, canal terminals, and canal terminal lands which are consistent with the canal recreationway plan. Such review and comment shall be provided within the time period set forth in the procedures of the commission established pursuant to section one hundred thirty-eight-b of this chapter which shall be no more than sixty days.

2. Lands to be leased shall be determined by the [corporation] COMMISSIONER to have no essential purpose for navigation.

3. Leases of canal lands, canal terminals and canal terminal lands shall be for purposes which are consistent with the New York state canal recreationway plan approved pursuant to section one hundred thirty-eight-c of this chapter and section three hundred eighty-two of the public authorities law.

4. The [corporation] COMMISSIONER shall consider fully completed applications for leases of canal lands, canal terminals and canal terminal lands in such form and manner as the [corporation] COMMISSIONER shall prescribe.

5. Canal lands, canal terminals and canal terminal lands within the Adirondack park shall not be leased.

6. The [corporation] COMMISSIONER shall provide assistance, including reasonable access to lands, as may be necessary to assist potential applicants in preparing an application.

7. The [corporation] COMMISSIONER may require an applicant for a lease to provide necessary property surveys, environmental studies, maps and photographs, site plans and such other documents and studies as the [corporation] COMMISSIONER may determine to be necessary to ascertain the compatibility of proposed development with the New York state canal recreationway plan and for the [corporation] COMMISSIONER to select a qualified lessee.

8. Revenues realized from the lease of canal lands, canal terminals and canal terminal lands shall be deposited into the canal fund.

S 28. Section 56 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 56. Conditions and terms of leases. Leases for canal lands, canal terminals and canal terminal lands shall include:

1. the period of time for such leases, provided that the initial term of such leases may not exceed forty years, and renewals of such leases may not exceed an additional forty years beyond such initial terms;

2. requirements that the lessee take no actions or construct no improvements that will interfere with navigation, except that if the [corporation] COMMISSIONER determines that any potential adverse interference with navigation can be reasonably mitigated, the [corporation] COMMISSIONER shall include in the lease such requirements as may be necessary to effectuate mitigation of impediments to navigation;

3. proper covenants to assure the payment of adequate consideration for the interests leased, and to further protect the state [and the corporation] as is deemed necessary by the [corporation] COMMISSIONER;

4. provisions requiring that payments on the lease shall be paid to the [corporation] DEPARTMENT;

5. provisions relating to public access, where feasible, to lands and waters of the canal system; provided however that the [corporation] COMMISSIONER may require that public access be restricted in those cases where the [corporation] COMMISSIONER determines that public safety will be served by such restriction;

6. provisions providing a right of entry for commission and [corporation] DEPARTMENT members and personnel and equipment for canal purposes; and

7. such other terms as the [corporation] COMMISSIONER shall determine are necessary and appropriate for the implementation of this article and the preservation of the state's interest in the canal system.

S 29. Section 57 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 57. Special conditions for leases entered prior to approval of canal recreationway plan. 1. In the period between the effective date of this section and the completion of the canal recreationway plan, the commission shall review and comment on proposed leases with respect to the consistency of such leases with the provisions of this article. Where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased, during such period the commission shall also review and comment on proposed leases with respect to the compatibility of such leases, to the extent practicable, with the requirements of such local zoning laws and zoning ordinances.

2. In addition to the other applicable provisions of this article, the [corporation] COMMISSIONER shall ensure that: (a) the lease will benefit the canal system by effectuating the development of the canal as a recreationway; (b) the lease will foster a canal system characterized by clusters of development and stretches of undeveloped open space which is conducive to the preservation of waterfowl, fish and wildlife habitats; and (c) may encourage the use of historic buildings, sites and districts listed on or eligible for the state or national registers of historic places.

S 30. Section 60 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 60. Alteration of county roads or town highways. Whenever the commissioner [of transportation] shall deem it necessary to discontinue or alter any part of a county road or town highway because of its inter-

ference with the proper location or construction of any work on the canal system either of [improvment, maintance,] IMPROVEMENT, MAINTENANCE or repair he OR SHE shall direct such discontinuance or alteration to be made and file in the office of the clerk of the county or town in which such road or highway is situate, an accurate description of the part of such road or highway so discontinued and of the one laid out anew. From the time of filing such description such road or highway shall be considered so altered. The use of such old road or highway shall not be discontinued until the new road or highway is declared open for public use by the commissioner [of transportation], and a certificate to such effect filed in the office of the clerk of the county or town in which said road or highway is located. Every alteration made on any public road located upon the canal system before the first day of January, nineteen hundred and thirty-nine shall be deemed valid in law from the time of such alteration.

S 31. Section 61 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 61. Farm and road bridges. The commissioner [of transportation] is authorized and required to maintain until April first, nineteen hundred fifty-four, at public expense farm, road and street bridges over the canal system, in all places where such bridges were constructed prior to the twentieth day of April, eighteen hundred thirty-nine, if, in his OR HER opinion, the public convenience requires that they should be continued, whether heretofore maintained at the expense of the state or of the counties, towns, villages and cities where they are situate, provided, however, that commencing on the first day of April, nineteen hundred fifty-four, and continuing thereafter, the maintenance, repair, improvement, replacement or closing of any such bridge over any section of the canal heretofore abandoned or which may hereafter be abandoned shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such city.

S 32. Section 62 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 62. Maintenance by state of certain bridges over the canal system. All highway or pedestrian, lift or movable bridges over the canal system other than highway bridges connecting parts of a state highway heretofore constructed as a part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state, if in the opinion of the commissioner [of transportation], the public convenience requires such bridges to be maintained where no alternate crossing has been provided. In the event the commissioner [of transportation] determines that any such bridge is no longer required for the convenience of the public, he OR SHE shall have power to close, remove or relocate such bridge. The commissioner [of transportation] shall have the supervision and direction of such reconstruction, improvement, maintenance, repair, closing, removing or relocation. All bridges over the canal system other than lift, movable, pedestrian or state highway bridges heretofore constructed as part of the barge canal improvement shall be reconstructed, improved, maintained and repaired at the expense of the state under the supervision and direction of the commissioner [of transportation], if, in his OR HER opinion, the public convenience requires that each such bridge shall be continued as a bridge for highway traffic. In the event the commissioner [of transportation] is requested by any municipality to reconstruct or improve any

such bridge, he OR SHE is hereby empowered to do so, provided, however, that prior to such reconstruction or improvement the municipality enters into a written agreement that such bridge thereafter shall become a part of the highway system or systems which it may connect and the maintenance, repair, improvement, replacement or closing of any such bridge shall be governed by the provisions of the highway law, except that any such bridges situate in a city shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the provisions of any special law which may apply or to the same provisions of law as apply to other streets and bridges in such city or in the case of such bridges situate in a village, such bridges shall be maintained, repaired, improved, replaced or closed in the same manner and subject to the same provisions of law as apply to other streets and bridges in such village. Any bridge over the New York state canal system or abandoned part thereof which joins parts of a state highway shall be under the jurisdiction of the commissioner [of transportation] and deemed to be part of the state highway system and such bridges shall be constructed, reconstructed, improved, maintained, repaired, closed or relocated pursuant to the provisions of the highway law and the cost of such work shall be paid from moneys available for construction, reconstruction, improvement, maintenance or repair of state highways.

S 33. Section 63 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 63. Maintenance by state of alteration to certain highway bridges not state owned. When in the canalization of a natural waterway to form a part of the canal system it has been or may be necessary to alter an existing highway bridge spanning the canalized portion of the waterway, the maintenance and repair of the additional or new part or parts of such bridge structure which may have been or may be necessary in altering the bridge to meet the requirements of navigation, shall be an obligation of the state. The commissioner [of transportation] shall have supervision and direction over such maintenance or repairs, the cost of which shall be defrayed from moneys appropriated for the improvement, maintenance and repair of the canal system.

S 34. Section 64 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 64. Commutation for bridges. The commissioner [of transportation] may commute with owners and claimants of bridges over any canal, by paying such owner or claimant such sum in lieu of a bridge as may be agreed on between the claimant and the commissioner [of transportation]. If, in the opinion of the commissioner [of transportation], a bridge should not be rebuilt, and the amount to be paid be not agreed upon, the bridge shall not be built, but the damages sustained by such owner by being deprived of such bridge and which the state under all the circumstances ought of right to pay, shall be ascertained in the same manner as damages for the appropriation of real property, for the use of the canal and paid by the commissioner [of transportation], on the approval of the attorney-general. If the damages claimed are for the deprivation of a bridge which the claimant had before constructed or maintained, the circumstance of his OR HER being equitably bound to contribute proportionately toward the construction and maintenance of an enlarged bridge shall be taken into consideration and a proper amount of that account shall be set off against any damage to which the claimant might otherwise be entitled.

S 35. Section 65 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 65. Private road in lieu of farm bridges. If the commissioner [of transportation] cannot agree with the owner of a farm bridge spanning a canal as to the amount of commutation in any case where he OR SHE is of the opinion that the state should erect such bridge, and the commissioner [of transportation] determines that a private road through adjoining lands will sufficiently accommodate such owner, and that the same can be laid out with economy to the state, he OR SHE may take the necessary action to lay out a private road for the accommodation of the owner, in the manner prescribed by law for laying out private roads and pay to the owner of the lands through which the same is laid out, the damages assessed.

S 36. Section 66 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 66. Restrictions on the construction of farm and road bridges. A person shall not be entitled to demand a farm bridge across a canal or feeder where the necessity of convenience of such bridge shall have arisen from the division or acquisition of property subsequent to the location of such canal or feeder. A street or road bridge shall not be constructed by the commissioner [of transportation] over a canal or feeder, except upon such streets or roads as were laid out, worked or used, previously to the construction of the canal or feeder, by which such street or road is obstructed; and when bridges are constructed or reconstructed upon any such streets or roads, the cost to the state shall in no case be more than is required to preserve in a safe and substantial manner the continuity of such streets or roads so as not to unnecessarily impair their usefulness. When a bridge of a more costly nature is desired by the local authorities of a city, town or village within whose corporate limits a bridge is to be built or rebuilt, the commissioner [of transportation], on presentation to him OR HER by such local authorities of plans and specifications for such bridge and approval thereof by him OR HER shall estimate and determine the proportion of the cost, which, in order to preserve the continuity of such streets and roads, the state ought equitably to pay, and file such estimate and determination in his OR HER office and a duplicate thereof in the office of the clerk of such city, town or village. If a private road or public highway is laid out by legal authority in such direction as to require the erection of a new bridge over a canal for the accommodation of the road, such bridge shall be so constructed and forever maintained at the expense of the town, village or city in which it shall be situated.

S 37. Section 67 of the canal law, as amended by chapter 420 of the laws of 1968, is amended to read as follows:

S 67. Construction of bridges by municipal corporations. The common council of any city may provide by ordinance for the erection of a lift, hoist or swing bridge over a canal at any street in such city, on plans and specifications approved by the commissioner [of transportation]. If the commissioner [of transportation] shall consent to such erection he OR SHE shall file such consent with the clerk of such common council. Such bridge shall be built, operated and maintained under the supervision and control of the commissioner [of transportation], but at the expense of such city or of the property adjudged by the common council to be so benefited.

S 38. Subdivision 1 of section 68 of the canal law, as amended by chapter 420 of the laws of 1968 and as designated by chapter 422 of the laws of 1994, is amended to read as follows:

1. When a bridge spanning the Oswego canal or that portion of the Erie canal between the Hudson river and its junction with the Oswego canal, is to be reconstructed, or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage of not less than twenty feet. When a bridge spanning the Champlain canal, the Cayuga and Seneca canals, or that portion of the Erie canal westerly of Three Rivers is to be reconstructed or a new bridge is to be built over such sections of the canal system, such reconstructed or new bridge shall be so built as to provide a clear passageway between the bottom clearance line of the bridge, if of the fixed type, or the bottom clearance line when raised, if of the movable type, and the surface of the water at its highest navigable stage, of not less than fifteen and one-half feet. The commissioner [of transportation] may, however, if in his OR HER judgment the additional cost is not unreasonable, require that such bridges be reconstructed or constructed to provide a clearance of not less than twenty feet or that the substructure of such bridge be so constructed that the superstructure may be raised to provide a clearance of twenty feet without rebuilding the foundation of said substructure.

S 39. Section 69 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 69. Damages caused by excessive loads. The commissioner [of transportation] shall cause, where required, the posting of all bridges under his OR HER jurisdiction located on the canal system in conformity with the provisions of the vehicle and traffic law. Upon all such bridges incapable of safely carrying legal loads as prescribed in such law or where the overhead clearance is less than the legal height of fourteen feet, the commissioner [of transportation] shall have displayed on both ends of such bridge signs stating the safe carrying capacity and legal clearance of such structure, all in accordance with the provisions of section three hundred eighty-five of the vehicle and traffic law. No person shall cause to be transported over such a bridge a vehicle whose load is in excess of that shown upon the posted sign or whose height is in excess of the legal clearance as shown on such posted sign. Any person violating the above provisions shall be subject to the penalties imposed under section three hundred eighty-five of the vehicle and traffic law and in addition thereto shall be liable for all damages to such structure resulting from violation of such law. The commissioner [of transportation] is hereby authorized and directed to proceed, on behalf of the people of the state, to cause to be recovered, by the attorney-general in an appropriate action in any court of competent jurisdiction, the amount of damages sustained and expenses incurred by the state in consequence of such violation.

S 40. Section 69-a of the canal law is REPEALED.

S 41. Section 70 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 70. Cargo statement. The master of any float shall furnish the [corporation] COMMISSIONER or [its] HIS OR HER representative a true statement of the quantity and description of the lading of such float, specifying the place from which it departed and to which it is destined. Any master who refuses to comply with any provision of this section shall forfeit to the people of the state a penalty not to exceed one hundred dollars, which shall be paid into the canal fund.

S 42. Section 71 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 71. Registry of canal floats. The owner of every commercial float to be navigated on the canal system shall make application to the [corporation] COMMISSIONER for a New York state certificate of registry. The application shall be in THE form prescribed by the [corporation] COMMISSIONER and shall contain such information as the [corporation] COMMISSIONER may deem essential for full and complete identification of the float and the owner thereof. It shall be signed by the owner if an individual, or by an officer of a company, partnership or corporation if so owned. Upon receipt of an application in proper form, the [corporation] COMMISSIONER shall assign a state registry number and issue to the owner a certificate of New York state registry, a copy of which shall be entered in the records of its office.

S 43. Section 72 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 72. Change of ownership, name or hailing place. Should the ownership, name or hailing place of a float change after state registry, the owner of the float shall make new application in form similar to that required for original registry and upon receipt of such application the [corporation] COMMISSIONER shall issue a new state certificate of registry and record the same in its office. The owner or owners of a commercial float found navigating the canal system, the ownership, name or hailing place of which shall have been changed without proper application for re-registry to the [corporation] COMMISSIONER, shall, upon due proof thereof be subject to a penalty to the people of the state of New York not to exceed one hundred dollars recoverable by the attorney general in an action in any court of competent jurisdiction.

S 44. Section 73 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 73. Registered owner to be advised of assessments and penalties. The [corporation] COMMISSIONER shall advise the person whose name appears on the latest application for registry on file in [its office] THE DEPARTMENT of any assessments, penalties or other charges levied against a float or its crew for acts or omissions occurring while the float is on the canal system. Should the registered owner fail to make prompt payment of such assessments, penalties or charges, the [corporation] COMMISSIONER may refuse clearance to the float and action shall be instigated as provided under section eighty-three of this article.

S 45. Section 74 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 74. List of registered floats to be prepared. The [corporation] COMMISSIONER shall make a list of all floats to which New York state certificates of registry have been issued. This list shall be corrected at least once in each calendar year and a copy of such corrected list shall be filed in the office of each of the district engineers having supervision over portions of the canal system. The list shall be filed in the [office of the corporation] DEPARTMENT and shall be available to public inspection within regular office hours.

S 46. Section 75 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 75. Clearance and ownership. Every commercial float shall have a clearance. Clearances may be obtained at such places along the canal system and at such other points as the [corporation] COMMISSIONER may direct. No clearance shall be granted to any commercial float unless the person authorized to issue such clearance has evidence that such float

is duly registered in the [office of the corporation] DEPARTMENT. Each float shall have a separate clearance and no part of the cargo shall be cleared to a place beyond which the float is cleared. The [corporation] COMMISSIONER may, in [its] HIS OR HER discretion, refuse to issue a clearance for a vessel against whose registered owner there is an unpaid penalty involving such vessel for the violation of rules and regulations adopted pursuant to this chapter.

S 47. Section 76 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 76. Regulations with respect to clearance. No commercial float shall proceed beyond the place to which it is cleared, nor unload any of its cargo, before or after its arrival, at the place from which such articles are cleared, nor proceed beyond such place until the master thereof delivers the clearance of such float or articles to the person designated by the [corporation] COMMISSIONER to receive the same, at the place for which they are cleared. If there is no canal official at such place, then to the canal official whose office shall be passed by the float in the order of its voyage, and receive permission from such canal official to proceed to the place to which it is cleared.

S 48. Section 77 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 77. Copy of clearance. The [corporation] COMMISSIONER, or [its] HIS OR HER representative issuing a clearance or with whom a clearance is filed, shall, when requested, furnish a copy thereof, with any additional cargo entered thereupon and the several indorsements, if any, which copy shall have the same validity and effect as the original clearance of which it is a copy.

S 49. Section 78 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 78. Assignment of berths for loading or unloading. The [corporation] COMMISSIONER or [its] HIS OR HER representative may assign berths to all floats while loading or unloading at any landing place upon a canal and determine disputes concerning same. The [corporation] COMMISSIONER, shall, as to any of the locks, terminals or mooring places of the canal system used by floats, regulate and station such floats for the best interest of navigation. The [corporation] COMMISSIONER may determine how far and in what instances masters and other persons having charge of any float shall accommodate each other in their respective anchorages. If any master or other person having control of any float within the limits of such waters shall neglect or refuse to obey the directions of the [corporation] COMMISSIONER, or [its] HIS OR HER representative, in any such matters within [its] HIS OR HER authority, or shall resist or oppose the [corporation] COMMISSIONER in the execution of the said duties, such person shall be liable to a penalty not to exceed one hundred dollars, recoverable by the [corporation] COMMISSIONER in any court of competent jurisdiction, and payable into the canal fund.

S 50. Section 79 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 79. Floating elevators. Any person owning or leasing, in whole or in part, any floating elevator used for loading grain, coal, sand, or other material, shall, upon application to and in the discretion of the [corporation] COMMISSIONER, be assigned a place for and permitted to keep said floating elevator in the waters of the canal system of this state, at such point as may be most convenient for and for such period of time as may be necessary for the transaction of the business of loading or unloading grain, coal, sand, or other material, shipped or to be

shipped on the canals; provided, however, that such floating elevator shall cause no obstruction to the free and uninterrupted use of the canal system by floats navigating thereon. While such elevators are in operation, they shall be equipped with such device or devices as the [corporation] COMMISSIONER may determine to prevent the material being loaded or unloaded from such float, from falling into such waters.

S 51. Section 80 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 80. Supplying deficiencies of water. Whenever the navigation of any part of the canal system is endangered by reason of a deficiency of water, the [corporation] COMMISSIONER shall, without delay, supply such deficiency. For that purpose [it] THE COMMISSIONER shall resume the temporary use of all the surplus water leased, licensed or withdrawn under revocable permit from the part of the canal system where such deficiency exists. If there still be a deficiency of water, [it] THE COMMISSIONER may enter upon and use all lands, streams and waters which, in [its] HIS OR HER judgment, may be necessary or proper to be used to procure a temporary supply of water for such part of the canal system. The [corporation] COMMISSIONER may enter into an agreement with the owner or owners of any property used for such temporary purpose under this section covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the [corporation] COMMISSIONER and paid from moneys available therefor. In case no agreement is consummated the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter. No damages shall be allowed in any case for resuming the use of any surplus water which has been withdrawn under lease, license or revocable permit.

S 52. Section 81 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 81. Deposit of refuse in navigable waters. It shall be unlawful to throw from or otherwise deposit, either from or out of any float or from the shore, wharf, manufacturing establishment or mill of any kind, refuse or other matter of any description, into any of the waters of the canal system or into any waters dredged at public expense and used for canal purposes. Every person that shall violate the provisions of this section shall be subject to damages to the amount as will compensate the [corporation] COMMISSIONER for the expenses involved in restoring such waters to its useful condition to meet the needs of canal navigation. It shall also be unlawful for any person to obstruct the navigation of a canal by the improper mooring, management or conduct of a float, or by placing any obstruction on the banks thereof.

S 53. Section 82 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 82. Seizure of obstruction. The [corporation] COMMISSIONER may cause to be seized and removed any object, article, float or sunken thing found within the limits of the canal system not under the care or charge of any person. [It] THE COMMISSIONER shall sell or offer for sale all seized objects, articles, floats or sunken things either before or after their removal, as [it] HE OR SHE deems essential for maintenance of the canal system. The sale shall be at public auction after giving ten days' written notice of such proposed sale conspicuously posted at two public places in the city or town where such object, article, float or sunken thing is found unless before the time of such sale the owner thereof appears and claims same and pays to the [corporation] DEPARTMENT the cost and expense which has been incurred by it in connection with the seizure, removal and proposed sale. The owner thereof shall be liable

for the cost and expense of such seizure, removal and sale of the said object, article, float or sunken thing which cost and expense may be recovered by the attorney-general in an appropriate action or proceeding brought in the name of the people of the state in any court of competent jurisdiction. The avails of such sale shall be accounted for by the [corporation] COMMISSIONER to the department of taxation and finance which may on the application of the owner and upon due proof of ownership pay over such proceeds to him OR HER after deducting all costs, expenses and reasonable charges of the seizure, removal and sale thereof. Whenever in the opinion of the [corporation] COMMISSIONER the navigation or operation of any part of the canal system is interrupted or endangered, the [corporation] COMMISSIONER may cause to be cut up, destroyed or otherwise removed any object, article, float or sunken thing in or partly in the waters of the canal system which may, in its judgment, be causing such interruption or damage. The [corporation] COMMISSIONER may enter into an agreement with the owner or owners of any property so cut up, destroyed, or otherwise removed, covering the amount of damage sustained. Such agreement when approved by the attorney-general shall become an obligation of the [corporation] DEPARTMENT and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

S 54. Section 84 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 84. Damage caused by termination of canal navigation. No part of the canal system of the state which was improved pursuant to chapter seven hundred ten of the laws of nineteen hundred seven and the acts supplemental thereto and amendatory thereof, shall be abandoned or navigation thereof permanently closed, nor shall the state cede or transfer ownership, jurisdiction or control thereof to the United States pursuant to authority conferred by constitutional amendment, until the expiration of one year after the [corporation] COMMISSIONER shall have been authorized and empowered by law to cause a notice of intention to take such action to be published once in each month during such year in at least one newspaper published in each county adjacent to the part of such canal system affected by such notice. Each person, who, at the time of the first publication of such notice, is the owner of a commercial float registered pursuant to the provisions of this chapter, which, at the close of navigation in such year, shall have been actually engaged in the navigation of the part of such canal system so abandoned, closed, ceded or transferred, or so relinquished to the jurisdiction or control of the United States, may present a claim for damages against the state [including the corporation] to a court of competent jurisdiction, which court shall hear and determine the liability [of the corporation] therefor; and, if the court shall find that such person has suffered or sustained damages by reason of such abandonment, closing, ceding, transfer, or relinquishment which the [corporation] DEPARTMENT, in right and justice, or in law or equity, is obligated to pay, such damages shall constitute a valid and legal claim against the [corporation] DEPARTMENT, and the [corporation] DEPARTMENT shall be deemed liable therefor, and the court may make an award to such person and render a judgment in his OR HER favor against the [corporation] DEPARTMENT in such sums as it shall find to be just and equitable. It is declared to be the purpose of this section to encourage and induce the construction of boats for use upon such canal system and their operation thereon and to protect from loss, financial investments made in such construction and operation

caused by an abrupt, permanent termination of navigation, or the creation of conditions, which would result in the impairment, limitation or destruction of navigation of such canal system by such floats.

S 55. Section 85 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 85. Rules and regulations. The [corporation] COMMISSIONER shall prescribe and enforce rules and regulations, not inconsistent with law, governing navigation on the canals and for the use of the terminals connected with the canals and for the use of all other property of the [corporation] DEPARTMENT under the [corporation's] COMMISSIONER OR DEPARTMENT'S control and maintained as a part of the canal system. The [corporation] COMMISSIONER shall provide rules and regulations for the government of all employees under [its] HIS OR HER control, engaged in the improvement, repair and maintenance of the canals. [It] THE COMMISSIONER shall cause such rules and regulations to be printed and a copy filed in the office of the department of state and a sufficient number distributed to the various district engineers and other field officers to be kept in their respective offices for public inspection.

S 56. Section 90 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 90. Record of operating expenses. The [corporation] COMMISSIONER shall keep an accurate account of all moneys appropriated by the legislature for the improvement, maintenance, repair and operation of the canal system and shall cause to be prepared and filed in the [office of the corporation] DEPARTMENT on or about January first of each year, a statement showing all such moneys appropriated and how expended during the preceding fiscal year. The [corporation] COMMISSIONER shall keep an accurate account of the recoveries made in all actions brought by [it] HIM or HER OR at [its] HIS OR HER direction, for the recovery of penalties or damages under authority of this chapter and of the cost and expenses thereof and pay into the canal fund the amount of all such recoveries and account for the same with the department of audit and control.

S 57. Section 91 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 91. Tonnage statistics. The [corporation] COMMISSIONER shall collect and compile accurate records of the tonnage transported on the canals during each season of navigation. Such data, together with all other necessary information relative to canal transportation shall be arranged in convenient form and furnished to those interested. The [corporation] COMMISSIONER shall publish from time to time such data and information as, in [its] HIS OR HER opinion, will promote and encourage commerce on the canals.

S 58. Section 92 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 92. Annual report. The [corporation] COMMISSIONER shall during the month of January make a report to the legislature covering the activities of the [corporation] DEPARTMENT with respect to the canal system for the preceding calendar year ending December thirty-first, including therein details as to the tonnage transported upon the canals of the state, the condition of the canals, and the work and improvements connected therewith; the several amounts of moneys appropriated and expended during the preceding fiscal year and submit recommendations of such measures in relation to the canals as, in [its] HIS OR HER judgment, the public interest requires.

S 59. Section 100 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 100. Granting revocable permits. The [corporation] COMMISSIONER is hereby authorized, in [its] HIS OR HER discretion, to issue revocable permits granting certain limited privileges therein, whenever the same can be done without detriment to canal navigation or damage to the banks or other structures thereof. [It] THE COMMISSIONER shall prescribe the terms and conditions by which such revocable permits may be issued for the temporary use of canal lands or structures and for the diversion of canal waters for sanitary, farm purposes, or industrial use. [It] THE COMMISSIONER may also issue permits, as [it] HE OR SHE shall deem to be advantageous to the [corporation] STATE, to any person, firm or corporation, to cut, gather and haul away ice from the canals. Whenever any space and facilities are available at any canal terminal and when no detriment or injury to canal traffic or delay in handling same would result, the [corporation] COMMISSIONER may issue a revocable permit for the temporary and restricted use or occupancy, of such canal terminal and the facilities thereof, pursuant to the rules and regulations which [it] HE OR SHE may prescribe. All permits heretofore granted by the corporation and not canceled, are hereby legalized and confirmed and made effectual and valid in accordance with the terms and conditions in said permit as fully as if this chapter had been in force on the date of issuance of such permit. No liability of any kind shall attach to or rest upon the state[, including the corporation,] for any damage on account of the granting or revocation of any permit. Existing permit holders within the Adirondack park in compliance with the terms of permits which have been properly issued pursuant to law shall continue to be afforded permits at least until the first day of June, nineteen hundred ninety-four, unless such permit holders fail to apply for permit renewal within six months of the expiration of such existing or former permit or permits, or by the first day of August, nineteen hundred ninety-three, whichever is later; provided, however, that no additional development right or rights may be included in any permit renewed prior to the first day of June, nineteen hundred ninety-five. Any revenue realized from the issuance of such permits shall be deposited into the canal fund.

S 60. Section 101 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 101. Railroads operating over canals. The [corporation] COMMISSIONER shall have a general supervisory power over so much of any railroad as passes over any canal or feeder belonging to the state or approaches within ten rods thereof, so far as may be necessary to preserve the free and perfect use of such canals or feeders, or for making any repairs, improvements or alterations thereupon. No railroad corporation shall construct its railroad over or at any place within ten rods of any canal or feeder belonging to the state, unless it submits to the [corporation] COMMISSIONER a map, plan and profile of such canal or feeder and of the route designated for its railroad, exhibiting distinctly and accurately the relation of each to the other at all the places within the limits of ten rods thereof, and obtains the written permission of the [corporation] COMMISSIONER for the construction of such railroad, with such conditions, directions and instructions as in its judgment the free and perfect use of any such canal or feeder may require.

Whenever any street railroad shall cross over any bridge spanning a canal, or canal feeder, the company owning, maintaining and operating the same, shall be deemed liable for and shall pay all damages that may

occur or arise, either to the state or to persons, by reason of its laying and maintaining its tracks or rail over, upon and across any such bridge, or by reason of the operation of its cars over the same; and any such company shall, upon demand of the [corporation] COMMISSIONER, make any repairs to such structure to insure the continued safety thereof, as shall have been rendered necessary by reason of such use of said structure by said company. Any company maintaining or operating a street railroad over, upon and across any such bridge shall indemnify the state [including the corporation] against any and all loss, damages or claims for damages for injuries to persons or property of passengers which shall be incurred by or made against such state by reason of the operation of such railroad over any such bridge, and the [or corporation] COMMISSIONER may, in [its] HIS OR HER discretion, require any company so maintaining or operating a street railroad to furnish a bond, with sureties to be approved by [it] HIM OR HER to indemnify the state [including the corporation] from all such loss, damage or claim. All such permits heretofore or hereafter granted shall be revocable whenever the free and perfect use of any such canal or feeder may so require, or if such railroad company shall fail to make any such repairs when required by the [corporation] COMMISSIONER. The railroad company using or occupying any bridge over the same shall, within a reasonable time after the service upon it, by the [corporation] COMMISSIONER of a written notice of such revocation, or to make such repairs, remove at its own cost and expense, its railroad from such bridge and from the limits of ten rods of said canal or feeder.

S 61. Section 102 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 102. Pipe lines crossing canals. No pipe line shall be constructed upon or across any of the canals of this state, except by the consent of and in a manner and upon the terms prescribed by the [corporation] COMMISSIONER, unless constructed upon a fixed bridge across such canal and with the consent of the person, firm or corporation for whose benefit such bridge is constructed and maintained, or upon such a bridge over the canal, at the crossing of a public highway, or street, with the consent of the public officers having the supervision thereof, or of the municipal authorities of any village or city within whose limits such bridge may be, nor shall the pipes of any such corporation be laid through, on or along the banks of any of the canals of this state, unless such pipes shall be encased so as to prevent leakage, in such manner as shall be approved by the [corporation] COMMISSIONER.

S 62. Subdivision 1 of section 103 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

1. The [corporation] COMMISSIONER shall have the power to impose tolls for the passage through locks and lift bridges by vessels which are propelled in whole or in part by mechanical power, and to collect such tolls by the sale of lock and lift bridge passes issued for such periods of time as the [corporation] COMMISSIONER shall determine. Tolls for such lock and lift bridge passes shall be established by regulation of the [corporation] COMMISSIONER with the advice of the canal recreationway commission and following no fewer than two public hearings at geographically dispersed locations on the canal system. In addition, the [corporation] COMMISSIONER may provide by regulation for the sale of lock and lift bridge passes by any other entity, and may allow a charge for handling by such other entities not to exceed one dollar for each pass. No tolls shall be imposed or collected prior to the first day of April, nineteen hundred ninety-three. Vessels owned by the United

States, a state, or subdivision thereof shall be exempted from the tolls authorized by this section.

S 63. Section 104 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 104. Use of dry docks for repairs. The [corporation] COMMISSIONER may grant permission to owners of vessels operating upon the canals to use the state dry docks to the extent space is not required for the needs of canal maintenance vessels, and the [corporation] COMMISSIONER shall collect from such owners equitable charges for the use thereof. All sums collected for such use shall be paid into the canal fund.

S 64. Section 112 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 112. Exemption of canal officers from arrest in civil actions. Neither the [corporation] COMMISSIONER, THE DEPARTMENT, nor any officer or responsible employee in the [corporation] DEPARTMENT in charge of canal structures or forces thereof, or other public officer employed upon or in charge of the canal system or part thereof shall be liable to arrest or to be held to bail in any civil action for any act done or omitted to be done by it in the exercise of its official duties, nor be subject to military duty while actually engaged in their respective employments upon the canal system while the same is navigable.

S 65. Section 113 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 113. Delivery of property on discharge of employees. Every person employed upon the canal system and occupying any house, office, building, or land belonging thereto, who is discharged from his OR HER employment or otherwise separated from the service, and the spouse and family of every such person, shall deliver to the [corporation or a person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE, the possession of the premises so occupied and of all books, papers, matters or other articles and things belonging to the canal system acquired by virtue of such employment, within seven days after notice is served for that purpose by the [corporation] COMMISSIONER. In case of a refusal or neglect to make such delivery, any court of competent jurisdiction in the county where such premises are situate, may, on application, issue a warrant ordering any peace officer, when acting pursuant to his OR HER special duties, or police officer, with such assistance as may be necessary, to enter, in the daytime, upon the premises so occupied and remove therefrom all persons found in possession thereof, and to take into his OR HER custody all books, papers, articles and things there found belonging to the canal system, and deliver the same to the [corporation or to some person designated by it] COMMISSIONER OR HIS OR HER DESIGNEE, and such officer shall execute such warrant accordingly.

S 66. Section 114 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 114. Functions, powers or duties imposed upon officers or employees by statutory name. Whenever a function, power or duty is imposed upon the [corporation] COMMISSIONER OR DEPARTMENT, and an officer or employee, or a group or class thereof is designated in this chapter by a statutory or specific title or name to exercise such function or power or perform such duty, the exercise or performance thereof shall be deemed to be imposed upon the officer or employee in such [corporation] DEPARTMENT who shall be assigned thereto by such [corporation] DEPARTMENT, with the same force and effect, and such [corporation] DEPARTMENT may make such assignment as though no statutory or specific title or name had been used in this chapter to designate the particular officer or

employee or group or class thereof charged with the exercise of such function or power, or the performance of such duty.

S 67. Section 120 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 120. Claims for damage generally. There shall be allowed and paid to every person sustaining damages from the canals or from their use or management, or resulting or arising from the neglect or conduct of any officer of the state [or the corporation] having charge thereof, or resulting or arising from any accident, or other matter or thing connected with the canals, the amount of such damages to be ascertained and determined by the proper action or proceedings before the court of claims, but no judgment shall be awarded by such court for such damages in any case unless the facts provided therein make out a case which would create a legal liability against the state [or the corporation,] were the same established in evidence in a court of justice against an individual or corporation; but the [corporation] COMMISSIONER may make settlement of any such claim in any case where the amount thereof does not exceed the sum of five hundred dollars but no settlement shall be effective against the state [including the corporation] until the same has been approved by the attorney-general; provided that the provisions of this section shall not extend to claims arising from damages resulting from the navigation of canals, and further provided that the provisions herein relating to damages resulting from navigation of the canals shall control notwithstanding any contrary or inconsistent provisions of any other law, general or special. The [corporation] COMMISSIONER shall not pay any damages awarded, or the amount of any commutations agreed on for the appropriation of land or water, or for the erection of a farm bridge, until a satisfactory abstract of title and certificate of search as to encumbrances is furnished, showing the person demanding such damages or commutations to be legally entitled thereto, which abstract and search shall be filed in the [office of the corporation] DEPARTMENT.

S 68. Section 121 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 121. Adjustment of claims of owners of private dams. Whenever the state [including the corporation] in the course of the construction of the improved canals in the rivers or waterways of the state, for the purpose of obtaining a sufficient depth or supply of water for canal purposes, has utilized private dams theretofore lawfully constructed or maintained, in such a manner as to constitute the same an essential part or portion of the improved canals, the [corporation] COMMISSIONER may compromise, settle and adjust the claims and demands of the owners of any such dams on such terms and conditions, including the payment to the owners of any such dams of such sums of money as to [it] HIM OR HER may seem just and proper, and, by contract or otherwise, make proper provision with respect to the ownership of and for the maintenance and upkeep of any such dams, provided, however, that [it] HE OR SHE shall not sell, transfer or convey to any such owner any right, title or interest in or to the use of any part or portion of the water impounded by such dams.

S 69. Section 130 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 130. Operation of hydro-electric plants at Crescent and Vischer Ferry. The [corporation] COMMISSIONER shall have charge of the hydro-electric plants constructed pursuant to chapter five hundred thirty-two of the laws of nineteen hundred twenty-two for the development and

generation into electric energy of water power available at the structures known as the Crescent and Vischer Ferry dams located on the canalized Mohawk river between the city of Schenectady and the village of Waterford, and shall exercise the same powers over such structures as [it] HE OR SHE has over other structures on the canal system. The said structures shall be maintained and operated as a part of the canal system.

Notwithstanding any general or special law to the contrary, the [corporation] COMMISSIONER, upon the approval of the state comptroller, and the division of the budget, is authorized to enter into a negotiated contract for the sale of surplus electricity produced at the Crescent and Vischer Ferry dams, upon such terms and conditions as are beneficial to the state [including the corporation]. Any revenue realized from the sale of such surplus electricity shall be deposited into the canal fund.

S 70. Section 131 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 131. Emergency repairs. When, in the opinion of the [corporation] COMMISSIONER, an emergency exists endangering the canal system the [corporation] COMMISSIONER may seize any lands, equipment, materials or supplies necessary to avert such damage or to restore the banks or other property which may be threatened or have been damaged. [It] THE COMMISSIONER may subsequently return or otherwise dispose of such lands, equipment, materials or supplies so seized which may be no longer required in such manner and upon such terms as in [its] HIS OR HER judgment will be for the best interest of the state [including the corporation]. [It] THE COMMISSIONER may enter into an agreement with the owner or owners of any property seized for such emergency repairs under this section covering the amount of damages sustained. Such agreement, when approved by the attorney-general, shall become an obligation of the [corporation] DEPARTMENT and paid from moneys available therefor. In case no agreement is consummated, the amount of damages sustained may be determined as provided in section one hundred twenty of this chapter.

S 71. Section 132 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 132. Investigate matters relating to the canal system; immunity of witnesses. 1. The [corporation] COMMISSIONER may, whenever [the corporation] HE OR SHE shall deem it necessary, to effectively accomplish the purposes of this chapter, investigate any or all matters and transactions connected with or relating to the canal system. The [corporation] COMMISSIONER shall hear and take proofs in regard to any matter pending before [it] HIM OR HER or which [it] HE OR SHE is authorized to examine or investigate. [It] THE COMMISSIONER shall have power to investigate into the official conduct of any subordinate officer or employee and shall have the power to issue subpoenas for and require the attendance of witnesses and the production of all books and papers relating to any matter under inquiry. All such subpoenas shall be issued under the hand and seal of the [corporation] COMMISSIONER. A subpoena issued under this section shall be regulated by the civil practice law and rules. The testimony of witnesses in any such proceedings shall be under oath and the state officer instituting the proceedings shall have power to administer oaths. A witness may have counsel and his OR HER examination by such counsel shall be reduced in writing as part of his OR HER deposition.

2. In any investigation under this article, the [corporation] COMMISSIONER may confer immunity in accordance with the provisions of section 50.20 of the criminal procedure law.

3. All evidence taken under this section shall be filed with the attorney-general. The expenses incurred in such investigation shall be paid from the canal fund.

S 72. Section 133 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 133. Impose penalties and power to remit. The [corporation] COMMISSIONER may, in [its] HIS OR HER discretion, remit either absolutely, or on such conditions as [it] HE OR SHE shall prescribe, any forfeiture incurred by a violation of any provision of this chapter, or any of the rules and regulations established by [it] HIM OR HER, on the written petition of the person liable for the forfeiture, with due proof of the facts on which the application for the remission is founded, which petition and proof and the order thereon shall be filed and preserved in the office of the department of audit and control.

S 73. Section 134 of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 134. Actions for penalties. All actions for penalties and forfeitures imposed in this chapter, or for damages, on behalf of the state [including the corporation,] shall be prosecuted in the name of the [corporation] COMMISSIONER OR DEPARTMENT, by the [corporation] DEPARTMENT, unless otherwise specifically provided. All money recovered in such actions shall be accounted for and paid into the canal fund. The imposition or recovery of any such penalty or forfeiture shall not be a bar to recovery of any damages resulting to the [corporation] COMMISSIONER OR DEPARTMENT or any person, because of such violation.

S 74. Paragraph a of subdivision 1 and subdivision 2 of section 138-a of the canal law, paragraph a of subdivision 1 as amended by chapter 243 of the laws of 1993, and subdivision 2 as added by chapter 766 of the laws of 1992, are amended to read as follows:

a. the [chairman of the authority, the] commissioner [of transportation], the commissioner of the office of parks, recreation and historic preservation and the commissioner of environmental conservation, or their representatives;

2. The chairperson of the commission shall be the [chairman of the authority] COMMISSIONER. The members of the commission may elect a secretary and other necessary officers to serve for such a period as the members shall decide.

S 75. Section 138-b of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 138-b. Functions, powers and duties. The commission shall:

1. Develop, maintain and periodically revise a statewide canal recreationway plan (hereinafter referred to as the "plan") for the canal system. Such plan shall be developed in accordance with the provisions of section one hundred thirty-eight-c of this article and shall be submitted to the [authority] DEPARTMENT for its consideration no later than the first day of June, nineteen hundred ninety-four.

2. Solicit input from counties intersecting or bordering the canal system and incorporate it to the greatest degree practicable in the development of the plan. In order to facilitate such incorporation commission members representing each of the regional planning boards shall request from and provide assistance to each county it represents in the preparation of a county canal plan. Multi-county canal plans may be requested by the regional planning board representative, as deemed appropriate, in lieu of individual county canal plans. In a region where a regional planning board does not exist, the commission shall solicit county canal plans from each of the chief executive officers of those

counties outside the jurisdiction of a regional planning board. The commission shall prescribe uniform guidelines concerning the format of plans to be used by the regional planning board representatives to assist counties in the preparation of county canal plans. The regional planning board representative shall encourage the development of county canal plans that reflect participation by diverse local interests by seeking advice, to the extent possible, from individuals and organizations from such counties with an interest in recreation, hunting and fishing, the environment, canal related tourism businesses, historic preservation and commercial development along the canal. In order to be considered in the formulation of the plan, county canal plans must be submitted to the commission not later than the first day of June, nineteen hundred ninety-three.

3. Ensure public comment on the plan, including at least three public hearings on the plan prior to submission of the plan to the [authority] DEPARTMENT. The commission may also hold hearings on other matters it deems appropriate.

4. If deemed appropriate, request that studies, surveys or analyses be performed by the [corporation, the] departments of transportation, economic development and environmental conservation and/or the office of parks, recreation and historic preservation to assist in the development, promotion, marketing and/or preservation of the canal system or the preparation of the plan. At the request of the commission, state agencies and public authorities shall cooperate fully and shall provide requested information in a timely manner.

5. Advise and assist the [corporation] DEPARTMENT in carrying out its duties and obligations related to the canal in the following manner:

a. evaluate and make recommendations for new operational, maintenance and capital initiatives or projects to enhance the canal;

b. establish criteria and procedures for the review by the commission for consistency with the canal recreationway plan of abandonments of canal lands, canal terminals and canal terminal lands, and leases of canal lands, canal terminals, and canal terminal lands proposed by the [corporation] COMMISSIONER pursuant to article six-A of this chapter; provided, however, that where local zoning laws and zoning ordinances are in effect on lands proposed to be leased or on lands adjacent to those lands proposed to be leased such review shall include, to the extent practicable, the consideration of the compatibility of such leases with the requirements of such local zoning laws and zoning ordinances; and provided further that the commission may determine that certain categories of leases do not require review;

c. submit to the [corporation] COMMISSIONER, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year thereafter, a budget request for the operations of the commission. Such request shall include provisions for staff services and other administrative assistance as deemed necessary by the commission to perform its functions and meet its responsibilities during the next calendar year. The [corporation] DEPARTMENT shall provide staff services to the commission and such other administrative assistance as may be necessary for the commission to carry out its functions, powers and duties;

d. submit to the [corporation] COMMISSIONER, the director of the budget and the chairpersons of the senate finance committee and the assembly ways and means committee, on the first day of October, nineteen hundred ninety-two, and on or before the first day of August in each year there-

after, a budget request for the expenditure of funds available from the canal fund, for the purposes established by section ninety-two-u of the state finance law. Submissions made during the initial years shall give funding priority for expenditures related to the development and/or promotion of the canal system;

e. undertake a comprehensive study of alternative waterway and canal toll and fee structures, including but not limited to, a comparative analysis of other existing waterway and canal systems, the impact of various toll and fee structures on recreational use, tourism, and commercial activity; and the revenue implications for each of these alternatives. The commission shall make recommendations to the [authority] COMMISSIONER by the first day of April, nineteen hundred ninety-three, on appropriate tolls and fees to be charged for the use of the canal system and shall provide an update on the implementation of such recommendations by the first day of April, nineteen hundred ninety-five; and

f. utilize information provided by the [authority] DEPARTMENT and other state agencies and departments, pursuant to section ten of this chapter, surveying canal lands within the Adirondack park and studying current land uses, to make recommendations to the authority, no later than the first day of June, nineteen hundred ninety-four, concerning the future use of canal lands within the Adirondack park, including but not limited to the utilization of existing properties under revocable permits; and the identification of any property not needed for canal purposes that may be transferred to the department of environmental conservation.

6. Establish committees as it deems appropriate on matters relating to the commission's functions, powers and duties; such committees shall be chaired by a commission member but may include persons not members of the commission who provide expertise of interest specific to the charge of such committee.

a. the commission shall create a temporary committee which shall include the commissioner of the department of economic development and the commissioner of the office of parks, recreation and historic preservation or their representatives and others with appropriate expertise to identify opportunities for achieving the economic development potential of the recreationway and to make recommendations for specific implementation of these opportunities, including recommendations for marketing and promotion designed to attract tourists.

b. the commission shall create a temporary committee, which may include appropriately accredited professionals, to assess and report to the [authority] COMMISSIONER on issues associated with managing the waters of the canal system, including issues relating to recreational use, habitats and flood prone areas.

7. Report on or before March thirty-first of each year commencing nineteen hundred ninety-four to the [corporation] COMMISSIONER, the governor, the temporary president of the senate and the speaker of the assembly on the activities of the commission with respect to the functions, powers and duties established in this section.

S 76. Section 138-c of the canal law, as amended by chapter 335 of the laws of 2001, is amended to read as follows:

S 138-c. Canal recreationway plan. 1. The commission shall, in accordance with the provisions of section one hundred thirty-eight-b of this article, formulate a statewide canal recreationway plan for the canal system that is based upon the inventory prepared pursuant to subdivision twenty-three of section ten of this chapter and that is consistent with

the land use concepts contained in the state land acquisition plan prepared pursuant to section 49-0207 of the environmental conservation law and in the statewide comprehensive outdoor recreation plan prepared pursuant to section 3.15 of the parks, recreation and historic preservation law. The plan shall include, but not be limited to:

a. criteria for uses of the canal system which will effectuate the goal and objective of developing the canal into a recreationway system;

b. provisions for fostering a canal system characterized by clusters of development connected by stretches of undeveloped open space in areas between cities, villages and hamlets which will be conducive to the preservation of waterfowl, fish and wildlife habitats;

c. provisions for the consideration of environmental resources, including lands which possess significance for wildlife management, recreation or natural resource protection purposes and significant freshwater wetlands;

d. provisions which protect the public interest in such lands and waters for purposes of commerce, navigation, fishing, hunting, bathing, recreation and access to the lands and waters of the state, and otherwise encourage increased public access to the canal through the establishment of parks, scenic by ways and recreational trails on the canal system. Such provisions shall ensure the public safety;

e. provisions to protect agricultural uses of canal land and waters;

f. provisions for appropriate development of businesses in appropriate locations which will support outdoor recreation activities;

g. provisions which give guidance to the [authority] DEPARTMENT with respect to managing water levels in reservoirs to provide water to the canal system and retain water for recreational purposes;

h. provisions to protect commercial shipping interests on the canal system; and

i. provisions for the consideration of historic buildings, sites and districts.

2. The plan shall establish goals and objectives with respect to implementation, with provision for amendment of the plan to reflect changing conditions.

3. a. The [corporation] COMMISSIONER shall act upon the plan submitted by the commission within four months after its submission and shall approve such plan unless [it] HE OR SHE finds that the plan, or any part thereof: (i) is not financially or operationally feasible; (ii) would violate any federal or state law, rule or regulation; (iii) violates agreements with noteholders or bondholders [of the authority]; (iv) interferes with existing contracts; or (v) is inconsistent with the findings of the generic environmental impact statement undertaken pursuant to section three hundred eighty-two of the public authorities law.

b. In the event that the [corporation] COMMISSIONER finds that the plan cannot be approved in its entirety, [it] HE OR SHE may approve such portions of the plan as [it] HE OR SHE deems appropriate, and shall recommend changes to the remaining portions of the plan to the commission. The commission shall then have three months in which to consider the recommendations of the [corporation] COMMISSIONER and submit a revised plan or portions thereof to the [corporation] COMMISSIONER.

c. Upon the approval of the plan or a portion of the plan as provided in this section, the [corporation] COMMISSIONER shall deliver within ten days a copy of the plan or portion of the plan to the governor, the temporary president of the senate and the speaker of the assembly, with a dated notice of such approval.

S 77. Paragraph (i) of subdivision 1 of section 19 of the public officers law, as added by chapter 115 of the laws of 2000, is amended to read as follows:

(i) For purposes of this section, the term "employee" shall include directors, officers and employees of the thruway authority [and its subsidiary, the canal corporation]. In those cases where the definition of the term "employee" provided in this paragraph is applicable, the term "state", as utilized in subdivisions two, three, and four of this section, shall mean the thruway authority when the employee is a director, officer, or employee of the thruway authority[, or its subsidiary, the canal corporation, when the employee is a director, officer, or employee of the canal corporation].

S 78. The opening paragraph of subdivision 1 and subdivision 2 of section 209-a of the state finance law, as amended by chapter 138 of the laws of 1997, are amended to read as follows:

Notwithstanding any other law, rule or regulation to the contrary, where, and to the extent that, an agreement between the state [or the New York state canal corporation] and an employee organization entered into pursuant to article fourteen of the civil service law on behalf of employees in a collective negotiating unit established pursuant to article fourteen of the civil service law provides for the payment of a supplement to the workers' compensation award, such supplement shall be paid in accordance with such agreement. Officers and employees serving in positions in the executive branch which are designated managerial or confidential pursuant to article fourteen of the civil service law, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in any recognized or certified negotiating unit, those excluded from representation rights under article fourteen of the civil service law pursuant to rules and regulations of the public employment relations board and officers and employees of the legislature shall receive a supplement to the workers' compensation award provided, however, that officers and employees serving in positions in the executive branch which are designated managerial or confidential pursuant to article fourteen of the civil service law, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in any recognized or certified negotiating unit and those excluded from representation rights under article fourteen of the civil service law pursuant to rules and regulations of the public employment relations board shall receive such supplement only with respect to an absence resulting from an occupational injury or disease occurring on or before June thirtieth, nineteen hundred ninety-two. Such supplement shall be paid in accordance with rules and regulations to be promulgated by the president of the civil service commission.

2. Notwithstanding any other law, rule or regulation to the contrary, where, and to the extent that, an agreement between the state [or the New York state canal corporation] and an employee organization entered into pursuant to article fourteen of the civil service law on behalf of employees in a collective negotiating unit established pursuant to article fourteen of the civil service law so provides, an employee placed on an authorized leave without pay during the course of an absence resulting from an occupational injury or disease found to be compensable by the workers' compensation board shall be deemed to be on the payroll at such employee's prevailing rate of annual compensation for the purpose of retirement credit and employer contributions to the retirement

system. Officers and employees serving in positions in the executive branch which are designated managerial or confidential pursuant to article fourteen of the civil service law, civilian state employees of the division of military and naval affairs of the executive department whose positions are not in, or are excluded from representation rights in any recognized or certified negotiating unit and those excluded from representation rights under article fourteen of the civil service law pursuant to rules and regulations of the public employment relations board who are placed on an authorized leave without pay during the course of an absence resulting from an occupational injury or disease found to be compensable by the workers' compensation board occurring on or after July first, nineteen hundred ninety-two, shall be deemed to be on the payroll at such officer's or employee's prevailing rate of compensation for the purpose of retirement credit and employer contributions to the retirement system. Any employee contribution relating to the retirement credit provided by this subdivision shall be paid directly by such employee to the retirement system pursuant to the rules and regulations of the comptroller. The retirement credit provided by this subdivision shall only apply to a period of authorized leave without pay occurring during the first twelve months of absence related to such occupational injury or disease.

S 79. Section 30 of the navigation law, as amended by chapter 486 of the laws of 2003, is amended to read as follows:

S 30. Navigation, jurisdiction over. The commissioner shall have jurisdiction over navigation on the navigable waters of the state and, except as otherwise provided, shall enforce the provisions of this chapter and the regulations established thereunder. As a guide to the interpretation and application of this article, nothing authorized [hereunder] IN THIS SECTION shall be construed to convey any property rights, either in real estate or material, or any exclusive privilege; nor authorize any injury to private property or invasion of private rights or any infringement of federal, state or local laws or regulations, but shall express the assent of the state so far as it concerns the public rights of navigation. Nothing contained in this section shall be construed to limit, impair or affect the general powers and duties of the [canal corporation] COMMISSIONER OF TRANSPORTATION OR DEPARTMENT OF TRANSPORTATION relating to canals as set forth in section ten of the canal law.

S 80. Subdivision 2 of section 45-cc of the navigation law, as added by chapter 486 of the laws of 2003, is amended to read as follows:

2. Notwithstanding any other provisions of this chapter or any inconsistent local laws, no vessel shall be operated on such canal system within one hundred feet of the shore, a dock, pier, raft, float or an anchored or moored vessel at a speed exceeding five miles per hour, unless such vessel is being operated near such shore, dock, float, pier, raft, or anchored vessel for the purpose of enabling a person engaged in water skiing to take off or land, and except in those areas where the [canal corporation] COMMISSIONER OF TRANSPORTATION has established a different speed by rule and regulation pursuant to the canal law. A violation of this subdivision or any applicable rules and regulations shall be a violation punishable as set forth in section seventy-three-c of this article.

S 81. Article 21 of the transportation law is REPEALED.

S 82. Paragraph 2 of subdivision (a) of section 168 of the economic development law, as amended by chapter 33 of the laws of 2006, is amended to read as follows:

(2) the chairman or his or her designated representative of the New York state thruway authority, the New York power authority, and the tourism advisory council, the New York state council on the arts, [the canal corporation,] the canal recreationway commission, the Olympic regional development authority, and the Hudson River park trust;

S 83. Subdivision 1 of section 9-1705 of the environmental conservation law, as added by chapter 674 of the laws of 2007, is amended to read as follows:

1. There is hereby established the New York invasive species council. Such council shall consist of a total of [nine] EIGHT members and shall include the commissioner, the commissioners of agriculture and markets, transportation, parks, recreation and historic preservation, education, the secretary of state, the chairperson of the New York state thruway authority, [the director of the New York state canal corporation,] and the chairperson of the Adirondack Park agency, or a designee of such department, agency or public authority.

S 84. Subdivision 1 of section 73-0105 of the environmental conservation law, as amended by chapter 336 of the laws of 2008, is amended to read as follows:

1. The task force shall consist of [fourteen] THIRTEEN members; [nine] EIGHT of whom shall be the [director of the canal corporation,] commissioner of the department of environmental conservation, the secretary of state, the commissioner of transportation, the director of the state emergency management office, the commissioner of parks, recreation and historic preservation, the commissioner of agriculture and markets, the chairman of the power authority of the state of New York and the commissioner of economic development or designee; and five additional members who shall be from outside the public offices listed in this section and who shall have professional experience in the fields of hydrology, civil engineering, climatology, emergency management and soil and water conservation. The governor shall appoint three of the five additional members and the temporary president of the senate and speaker of the assembly shall each appoint one of each of the five additional members.

S 85. Subdivision 3 of section 73-0107 of the environmental conservation law, as added by chapter 456 of the laws of 2007, is amended to read as follows:

3. The department and the [canal corporation] DEPARTMENT OF TRANSPORTATION shall provide the task force with such facilities, assistance and data as will enable the task force to carry out its powers and duties. Additionally, all other agencies of the state or subdivisions thereof shall, at the request of the chair provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

S 86. Subdivision 1 of section 37.05 of the parks, recreation and historic preservation law, as amended by chapter 64 of the laws of 2000, is amended to read as follows:

1. The Mohawk Valley heritage corridor commission is hereby established to be a body corporate and politic constituting a public benefit corporation and to consist of up to seventeen voting members who shall reside within the heritage corridor. One member each shall be appointed by the chief elected official from each of the counties of Albany, Schenectady, Montgomery, Schoharie, Herkimer, Fulton, Saratoga and Oneida. The legislative body of each city, town and village in such counties may recommend prospective appointees to its respective county. The Capital District Regional Planning Commission and the Oneida/Herkimer Counties Comprehensive Planning Program each may designate a representative to

participate as non-voting members of the commission. The remaining nine members shall be appointed as follows: two members shall be appointed by the temporary president of the senate; two members shall be appointed by the speaker of the assembly; one member shall be appointed by the minority leader of the senate; one member shall be appointed by the minority leader of the assembly; three members shall be appointed by the governor, at least one of whom shall be the chief elected official of a city, town or village located in whole or in part within the Mohawk Valley area. The commission may increase the number of its members by one, to reach a total of eighteen members, to provide for representation of a Native American Indian nation with federal and/or state legal recognition who resides in the Mohawk Valley. All persons responsible for appointing members of the commission shall be mindful of the importance of assuring adequate representation on the commission of the interests of various municipal entities, conservationists, business owners and operators, tourism promotion agencies, persons engaged in agricultural pursuits, minorities and educators, and persons having an interest and experience with at least one of the four heritage area goals of preservation, recreation, education, and economic development. The commissioner, the commissioner of economic development, the commissioner of agriculture and markets, the commissioner of environmental conservation, THE COMMISSIONER OF TRANSPORTATION, the chairman of the New York state thruway authority [and canal corporation] and other members of the New York state heritage areas advisory council, or their representatives, and the mayors, supervisors or other chief elected officer of any city, town, or village located in whole or part in the Mohawk Valley area may participate in commission meetings as non-voting members and shall receive notice of all commission meetings. Appointment to the commission shall be filed with the commissioner who shall convene the first meeting of the commission following the commissioner's approval of the management plan and the filing of a majority of the appointments.

S 87. Paragraph 1 of subdivision j of section 41 of the retirement and social security law, as amended by chapter 18 of the laws of 2012, is amended to read as follows:

1. In addition to any other service credit to which he or she is entitled, a member who meets the requirements set forth in paragraphs two and three of this subdivision shall be granted one day of additional service credit for each day of accumulated unused sick leave which he or she has at time of retirement for service, but such credit shall not (a) exceed one hundred sixty-five days, (b) be considered in meeting any service or age requirements prescribed in this chapter, and (c) be considered in computing final average salary. However, for an executive branch member designated managerial or confidential pursuant to article fourteen of the civil service law or in the collective negotiating units established by article fourteen of the civil service law designated the professional, scientific and technical services unit, the rent regulation services negotiating unit, the security services negotiating unit, the security supervisors negotiating unit, the state university professional services negotiating unit, the administrative services negotiating unit, the institutional services negotiating unit, the operational services negotiating unit and the division of military and naval affairs negotiating unit such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days. For a nonjudicial officer or employee of the unified court system not in a collective negotiating unit or in a collective negotiating unit specified in section one of chapter two hundred three of the laws of two

thousand four, for employees of the New York state dormitory authority, for employees of the New York state thruway authority, [the New York state canal corporation] and the state university construction fund and for employees of the New York liquidation bureau such service credit limitation provided in subparagraph (a) of this paragraph shall not exceed two hundred days. For members who first become members of a public retirement system of the state on or after April first, two thousand twelve, such credit shall not exceed one hundred days.

S 88. Subdivisions 10 and 12 of section 351 of the public authorities law, subdivision 10 as added by chapter 766 of the laws of 1992 and subdivision 12 as amended by chapter 583 of the laws of 1993, are amended to read as follows:

10. The term "New York state canal system" shall mean all of the canals, canal lands, feeder canals, reservoirs, canal terminals, canal terminal lands and other property under the jurisdiction of the [authority] DEPARTMENT OF TRANSPORTATION pursuant to article one-A of the canal law.

12. The term "thruway system" shall mean: (a) the thruway; AND (b) the [New York state canal system; and (c) the] Tappan Zee ferry service.

S 89. Subdivision 13 of section 351 of the public authorities law is REPEALED.

S 90. Subdivision 10 of section 354 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

10. To construct, reconstruct or improve on or along the thruway system in the manner herein provided, suitable facilities for gas stations, restaurants, and other facilities for the public, or to lease the right to construct, reconstruct or improve and operate such facilities; such facilities shall be publicly offered for leasing for operation, or the right to construct, reconstruct or improve and operate such facilities shall be publicly offered under rules and regulations to be established by the authority, provided, however, that lessees operating such facilities at the time this act becomes effective, may reconstruct or improve them or may construct additional like facilities, in the manner and upon such terms and conditions as the board shall determine; and provided further, however, that such facilities constructed, reconstructed or improved on or along the canal system shall be consistent with the canal recreationway plan approved pursuant to section one hundred thirty-eight-c of the canal law [and section three hundred eighty-two of this title];

S 91. Section 355 of the public authorities law, as amended by chapter 138 of the laws of 1997, is amended to read as follows:

S 355. Officers and employees; transfer, promotion and seniority. 1. Officers and employees of state departments[,] OR agencies[, or the canal corporation] may be transferred to the authority and officers, agents and employees of the authority may be transferred to state departments[,] OR agencies[, or the canal corporation,] without examination and without loss of any civil service status or rights. No such transfer from the authority [or canal corporation] to any state department, agency, or division may, however, be made except with the approval of the head of the state department, agency, or division involved and the director of the budget and in compliance with the rules and regulations of the state civil service commission.

2. Promotions from positions in state departments and agencies to positions in the authority [or canal corporation], and vice versa, may be made from interdepartmental promotion lists resulting from promotion

examinations in which employees of the authority[, employees of the canal corporation,] and employees of the state are eligible to participate.

3. In computing seniority for purposes of promotion or for purposes of suspension or demotion upon the abolition of positions in the service of the authority or in the service of the state, in the case of an employee of the authority a period of prior employment in the service of the state shall be counted in the same manner as though such period of employment had been in the service of the authority, and in the case of an employee of the state a period of prior employment in the service of the authority shall be counted in the same manner as though such period of employment had been in the service of the state. For the purposes of the establishment and certification of preferred lists, employees suspended from the authority shall be eligible for reinstatement in the service of the state, and employees suspended from the service of the state shall be eligible for reinstatement in the service of the authority, in the same manner as though the authority were a department of the state. [All provisions contained within this subdivision shall apply to the canal corporation in the same manner that they apply to the authority.]

S 92. Section 357 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

S 357. Right of authority to use state property; payment for improvements. On assuming jurisdiction of a thruway highway section or connection or any part thereof, or of a highway connection, [or of the New York state canal system,] the authority shall have the right to possess and use for its corporate purposes so long as its corporate existence shall continue, any real property and rights in real property theretofore acquired by the state, including all improvements thereon [and state canal lands and properties; provided that the use by the authority of canal lands and properties for highway purposes shall not interfere with the use thereof for canal purposes].

S 93. Subdivision 1 of section 359 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

1. On assuming jurisdiction of a thruway section or connection or any part thereof, or of a highway connection, [or of the New York state canal system,] the authority shall proceed with the construction, reconstruction or improvement thereof. All such work shall be done pursuant to a contract or contracts which shall be let to the lowest responsible bidder, by sealed proposals publicly opened, after public advertisement and upon such terms and conditions as the authority shall require; provided, however, that the authority may reject any and all proposals and may advertise for new proposals, as herein provided, if in its opinion, the best interests of the authority will thereby be promoted; provided further, however, that at the request of the authority, all or any portion of such work, together with any engineering required by the authority in connection therewith, shall be performed by the commissioner and his OR HER subordinates in the department of transportation as agents for, and at the expense of, the authority.

S 94. Section 359-a of the public authorities law, as added by chapter 140 of the laws of 2002, is amended to read as follows:

S 359-a. Procurement contracts. For the purposes of section twenty-eight hundred seventy-nine of this chapter as applied to the authority [or the canal corporation], the term "procurement contract" shall mean any written agreement for the acquisition of goods or services of any

kind by the authority [or the canal corporation] in the actual or estimated amount of fifteen thousand dollars or more.

S 95. Section 360 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows;

S 360. Operation and maintenance. Operation and maintenance by the authority of any thruway section or connection or any part thereof or of a highway connection[, the New York state canal system] of which it has assumed jurisdiction shall be performed (a) by the use of authority forces and equipment at the expense of the authority or by agreement at the expense of the state or other parties; (b) by contract with municipalities or independent contractors; (c) at the request of the authority, by the commissioner and his OR HER subordinates in the department of transportation as agents for, and at the expense of the authority, or (d) by a combination of such methods.

S 96. Section 362 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

S 362. Assistance by state officers, departments, boards, divisions and commissions. At the request of the authority, engineering and legal services for such authority shall be performed by forces or officers of the department of transportation and the department of law respectively, and all other state officers, departments, boards, divisions and commissions shall render services within their respective functions. At the request of the authority, services in connection with the collection of any charges or fees for the use of the thruway[, the New York state canal system] or any part thereof may be performed by the department of motor vehicles.

S 97. Paragraph (a) of subdivision 1 of section 365 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

(a) Subject to the provisions of section three hundred sixty-six of this title, the authority shall have the power and is hereby authorized from time to time to issue its negotiable notes and bonds in conformity with applicable provisions of the uniform commercial code in such principal amount as, in the opinion of the authority, shall be necessary to provide sufficient moneys for achieving the corporate purposes thereof, including construction, reconstruction and improvement of the thruway sections and connections, and highway connections herein described, [the New York state canal system subject to the provisions of section three hundred eighty-three of this title,] together with suitable facilities and appurtenances, the payment of all indebtedness to the state, the cost of acquisition of all real property, the expense of maintenance and operation, interest on notes and bonds during construction and for a reasonable period thereafter, establishment of reserves to secure notes or bonds, and all other expenditures of the authority incident to and necessary or convenient to carry out its corporate purposes and powers.

S 98. Paragraph (i) of subdivision 3 of section 365 of the public authorities law, as amended by chapter 766 of the laws of 1992, is amended to read as follows:

(i) the acquisition of jurisdiction over, and of property for, thruways[, the New York state canal system,] and the construction, reconstruction, improvement, maintenance or operation thereof;

S 99. Sections 382 and 383 of the public authorities law are REPEALED.

S 100. Paragraph e of subdivision 6 of section 2897 of the public authorities law is REPEALED.

S 101. Subdivisions 2 and 5 of section 92-u of the state finance law, subdivision 2 as added by chapter 766 of the laws of 1992 and subdivi-

sion 5 as amended by chapter 483 of the laws of 1996, are amended to read as follows:

2. Such fund shall consist of all revenues received from the operation of the New York state canal system as defined in section [three hundred fifty-one of the public authorities law and section] two of the canal law, including payments on leases for use of canal lands, terminals and terminal lands, tolls received for lock and lift bridge passage, payments for hydroelectric easements and sales, for purchase of other abandoned canal lands, payments for any permits and leases for use of the water and lands of the system and payments for use of dry docks and other moneys made available to the fund from any other source [other than a grant, loan or other inter-corporate transfer of funds of the New York state thruway authority], and any income earned by, or incremental to, the fund due to investment thereof, or any repayment of any moneys advanced by the fund.

5. Moneys of the fund, following appropriation by the legislature, shall be available to the [New York state thruway authority] DEPARTMENT OF TRANSPORTATION and shall be expended by such [authority or subsidiary corporation thereof] DEPARTMENT only for the maintenance, construction, reconstruction, development or promotion of the canal system; provided, however, that in the initial years, expenditures of moneys of the fund for the development and/or promotion of the canal system shall be accorded a priority by the [authority or subsidiary corporation thereof] DEPARTMENT. In addition, moneys of the fund may be used for the purposes of interpretive signage and promotion for appropriate historically significant Erie canal lands and related sites. Moneys shall be paid out of the fund by the state comptroller on certificates issued by the director of the budget.

S 102. Subdivision 1 of section 373 of the public authorities law, as amended by chapter 776 of the laws of 1951, is amended to read as follows:

1. The state does pledge to and agree with the holders of notes, bonds, or other obligations of the authority not guaranteed by the state that the state will not limit or alter the rights hereby vested in the authority to establish and collect such fees, rentals and charges as may be convenient or necessary to produce sufficient revenue to meet the expense of maintenance and operation and to fulfill the terms of any agreements made with the holders thereof, or in any way impair the rights and remedies of such holders until such notes, bonds, and other obligations, together with the interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of such holders, are fully met and discharged; PROVIDED, HOWEVER, THAT IF ANY TOLL, FEE, CHARGE OR ANY COMBINATION THEREOF IMPOSED ON A VEHICLE FOR THE USE OF THE THRUWAY, EXCLUDING ANY TOLLS, FEES, OR CHARGES FOR THE USE OF A BRIDGE OR SET OF BRIDGES, EXCEEDS THE TOLL, FEE, CHARGE OR COMBINATION THEREOF THAT SUCH VEHICLE WOULD HAVE BEEN SUBJECT TO ON THE FIRST DAY OF JANUARY, TWO THOUSAND TWELVE DIVIDED BY THE NATIONAL CONSUMER PRICE INDEX DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR JANUARY, TWO THOUSAND TWELVE AND MULTIPLIED BY THE NATIONAL CONSUMER PRICE INDEX DETERMINED BY THE UNITED STATES DEPARTMENT OF LABOR FOR THE MOST RECENT MONTH PUBLISHED, THEN THE ENTIRE AMOUNT THAT THE TOLL, FEE, CHARGE OR COMBINATION THEREOF EXCEEDS THE AMOUNT THAT THE VEHICLE WOULD HAVE BEEN SUBJECT TO ON THE FIRST DAY OF JANUARY, TWO THOUSAND THIRTEEN MUST BE PLACED IN A SEPARATE FUND IN ACCORDANCE WITH SUCH REQUIREMENTS AS THE STATE COMPTROLLER MAY PRESCRIBE. THE AUTHORITY SHALL USE SUCH FUNDS AND

ANY INTEREST EARNED THEREON TO PAY INSTALLMENTS ON NOTES, BONDS OR OTHER OBLIGATIONS DUE BEFORE THE END OF THE CURRENT CALENDAR YEAR OR TO PURCHASE NOTES, BONDS OR OTHER OBLIGATIONS OF THE AUTHORITY ISSUED AT LEAST TWO YEARS PRIOR AND NOT GUARANTEED BY THE STATE, WHICH SHALL THEREUPON BE CANCELLED, AT A PRICE NOT EXCEEDING (A) IF THE NOTES OR BONDS ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE THEREON, OR (B) IF THE NOTES OR BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE FIRST DATE AFTER SUCH PURCHASE UPON WHICH THE NOTES OR BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO SAID DATE. THE AUTHORITY SHALL MAKE A GOOD FAITH EFFORT TO EXHAUST SUCH FUND BY THE LAST DAY OF DECEMBER EACH YEAR.

S 103. (a) Notwithstanding any other provision of law to the contrary, all employees of the New York state canal corporation, as constituted pursuant to chapter 766 of the laws of 1992, as a subsidiary of the New York state thruway authority, and such other employees of the thruway authority as may be mutually agreed to by the chairman of the authority and the commissioner of transportation shall be transferred to the department of transportation. Employees so transferred shall be transferred without further examination or qualification and shall retain their respective civil service classification status. In addition, the New York state canal corporation as constituted pursuant to chapter 766 of the laws of 1992 as a subsidiary of the New York state thruway authority shall, for a period of two years following the effective date of this act, be considered the former agency of such employees transferred pursuant to this section for the purposes of subdivision 8 of section 73 of the public officers law.

(b) Any such employee who at the time of such transfer shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article 14 of the civil service law, and whose job function or duties have remained essentially the same, shall continue to be represented by said employee organization, in a bargaining unit within the department of transportation. Successor employees to the positions held by such transferred employees in the department of transportation shall, consistent with the provisions of article 14 of the civil service law, be included in the same unit as their predecessors. Nothing in this section shall be construed to affect (i) the rights of employees pursuant to an existing or most recently expired collective bargaining agreement, or (ii) existing law with respect to an application by the public employment relations board seeking designation by the board that certain persons are managerial or confidential. Nothing in this section shall preclude changes in negotiating units of such employees consistent with the provisions of article 14 of the civil service law.

S 104. Severability. If any clause, sentence, paragraph, section or part of this act 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 directly involved in the controversy in which such judgment shall have been rendered. In addition, this act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed so as to effectuate its purposes.

S 105. This act shall take effect immediately; provided, however, that the amendments made to sections 73-0105 and 73-0107 of the environmental conservation law by sections eighty-four and eighty-five of this act

shall not affect the repeal of such sections as provided in section 3 of chapter 456 of the laws of 2007, as amended, and shall be deemed repealed therewith; provided, further, that the amendments to subdivision 1 of section 37.05 of the parks, recreation and historic preservation law made by section eighty-six of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.