

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

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I N A S S E M B L Y

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Introduced by M. of A. BRENNAN, GOLDFEDER, CRESPO, ABINANTI -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, CLARK, COOK, GOTTFRIED, GUNTHER, JAFFEE, LUPARDO, MAGEE, MAGNARELLI, MARKEY, O'DONNELL, PERRY, ROSENTHAL, SCARBOROUGH, TITONE, TITUS, WEPRIN, WRIGHT -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public service law, in relation to the department of public service; and to amend the public authorities law, in relation to the power authority of the state of New York

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

1 Section 1. This act shall be known and may be cited as the "Power
2 Authority of the State of New York oversight and accountability act".
3 S 2. The opening paragraph of section 3 of the public service law is
4 designated subdivision 1 and a new subdivision 2 is added to read as
5 follows:
6 2. THE DEPARTMENT SHALL, UPON NOTIFICATION TO THE POWER AUTHORITY OF
7 THE STATE OF NEW YORK, UNDERTAKE A COMPREHENSIVE AND REGULAR MANAGEMENT
8 AND OPERATIONS AUDIT OF SAID AUTHORITY PURSUANT TO SUBDIVISION
9 TWENTY-FIVE OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.
10 THE DEPARTMENT SHALL HAVE DISCRETION TO HAVE SUCH AN AUDIT PERFORMED BY
11 ITS STAFF, OR BY AN INDEPENDENT CONTRACTOR. IN EVERY CASE IN WHICH AN
12 AUDIT IS REQUIRED PURSUANT TO SUBDIVISION TWENTY-FIVE OF SECTION ONE
13 THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW PERFORMED BY AN INDEPENDENT
14 AUDITOR, THE DEPARTMENT SHALL HAVE THE AUTHORITY TO SELECT THE AUDITOR,
15 AND TO REQUIRE THE POWER AUTHORITY OF THE STATE OF NEW YORK TO ENTER
16 INTO A CONTRACT WITH THE AUDITOR THAT IS CONSISTENT WITH THE CONTRACT-
17 ING-RELATED REQUIREMENTS SPECIFIED IN SUBDIVISION NINETEEN OF SECTION
18 SIXTY-SIX OF THIS CHAPTER AND THE REQUIREMENTS OF SUBDIVISION
19 TWENTY-FIVE OF SECTION ONE THOUSAND FIVE OF THE PUBLIC AUTHORITIES LAW.
20 SUCH CONTRACT SHALL PROVIDE FURTHER THAT THE AUDITOR SHALL WORK FOR AND

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

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1 UNDER THE DIRECTION OF THE DEPARTMENT ACCORDING TO SUCH TERMS AS THE
2 DEPARTMENT MAY DETERMINE ARE NECESSARY AND REASONABLE.

3 S 3. Section 1005 of the public authorities law is amended by adding a
4 new subdivision 25 to read as follows:

5 25. COMPREHENSIVE AND REGULAR MANAGEMENT AND OPERATIONS AUDITS. (A)
6 THE AUTHORITY SHALL COOPERATE IN THE UNDERTAKING AND COMPLETION OF A
7 REGULAR AND COMPREHENSIVE MANAGEMENT AND OPERATIONS AUDIT CONDUCTED
8 PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION. SUCH AUDIT SHALL
9 REVIEW AND EVALUATE THE AUTHORITY'S OVERALL OPERATIONS AND MANAGEMENT,
10 INCLUDING, BUT NOT BE LIMITED TO: (I) THE AUTHORITY'S CONSTRUCTION AND
11 CAPITAL PROGRAM PLANNING IN RELATION TO THE NEEDS OF ITS CUSTOMERS FOR
12 RELIABLE SERVICE; (II) THE OVERALL EFFICIENCY OF THE AUTHORITY'S OPER-
13 ATIONS; (III) THE MANNER IN WHICH THE AUTHORITY IS MEETING ITS DEBT
14 SERVICE OBLIGATIONS; (IV) THE AUTHORITY'S ANNUAL BUDGETING PROCEDURES
15 AND PROCESS; (V) THE AUTHORITY'S COMPLIANCE WITH DEBT COVENANTS; (VI)
16 THE IMPLEMENTATION OF RECHARGE NEW YORK POWER PROGRAM PURSUANT TO SUBDI-
17 VISION THIRTEEN-A OF THIS SECTION; (VII) THE IMPLEMENTATION AND EFFICACY
18 OF THE ENERGY EFFICIENCY PROGRAM PURSUANT TO PARAGRAPH (C) OF SUBDIVI-
19 SION THIRTEEN-B OF THIS SECTION; (VIII) THE IMPLEMENTATION OF THE ENERGY
20 EFFICIENCY PROJECTS PROGRAM PURSUANT TO SUBDIVISION SEVENTEEN OF THIS
21 SECTION; AND (IX) SUCH OTHER SERVICES, OPERATIONS AND FINANCES OF THE
22 AUTHORITY AS THE COMMISSION SHALL DEEM ADVISABLE.

23 (B) THE DEPARTMENT OF PUBLIC SERVICE SHALL NOTIFY THE AUTHORITY THAT
24 SAID DEPARTMENT IS IN THE PROCESS OF INITIATING A COMPREHENSIVE MANAGE-
25 MENT AND OPERATIONS AUDIT AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVI-
26 SION IN A MANNER THAT ENSURES THE TIMELINESS OF SUCH AUDIT, AND IN
27 ACCORDANCE WITH THE FOLLOWING TIMEFRAME: THE FIRST COMPREHENSIVE MANAGE-
28 MENT AND OPERATIONS AUDIT SHALL BE INITIATED AS OF THE EFFECTIVE DATE OF
29 THIS SUBDIVISION; THE SECOND COMPREHENSIVE MANAGEMENT AND OPERATIONS
30 AUDIT SHALL BE INITIATED NO LATER THAN DECEMBER FIFTEENTH, TWO THOUSAND
31 NINETEEN; AND ALL ADDITIONAL COMPREHENSIVE MANAGEMENT AND OPERATIONS
32 AUDITS SHALL BE INITIATED AT LEAST ONCE EVERY FIVE YEARS THEREAFTER.
33 WITHIN A REASONABLE TIME AFTER SUCH NOTIFICATION TO THE AUTHORITY, SAID
34 DEPARTMENT OR THE INDEPENDENT AUDITOR RETAINED BY THE AUTHORITY TO
35 UNDERTAKE SUCH AUDIT SHALL HOLD PUBLIC STATEMENT HEARINGS, WITH PROPER
36 NOTICE, IN EACH JUDICIAL DEPARTMENT IN THE STATE FOR THE PURPOSE OF
37 RECEIVING BOTH ORAL AND WRITTEN COMMENTS FROM THE PUBLIC ON MATTERS
38 RELATED TO SUCH AUDIT AS DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION.

39 (C) EACH SUCH AUDIT SHALL BE COMPLETED WITHIN EIGHTEEN MONTHS OF
40 INITIATION UNLESS AN EXTENSION IS GRANTED FOR GOOD CAUSE SHOWN BY THE
41 DEPARTMENT OF PUBLIC SERVICE OR THE INDEPENDENT AUDITOR UNDER CONTRACT
42 WITH THE AUTHORITY WITH NOTICE OF SUCH EXTENSION TO THE GOVERNOR, THE
43 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE
44 CHAIRS OF THE AUTHORITY AND THE DEPARTMENT OF PUBLIC SERVICE. SUCH AUDIT
45 SHALL BE PROVIDED TO THE BOARD OF THE AUTHORITY IMMEDIATELY UPON ITS
46 COMPLETION. THE DEPARTMENT OF PUBLIC SERVICE SHALL PROVIDE NOTICE OF
47 COMPLETION OF SUCH AUDIT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE
48 SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE MINORITY LEADERS OF THE
49 SENATE AND ASSEMBLY, AND THE AUTHORITY, UPON RECEIPT OF SUCH AUDIT,
50 SHALL POST A COPY OF SUCH AUDIT, INCLUDING FINDINGS AND RECOMMENDATIONS,
51 ON ITS WEBSITE. UNLESS THE BOARD OF THE AUTHORITY MAKES A PRELIMINARY
52 DETERMINATION THAT ANY PARTICULAR FINDING OR RECOMMENDATION CONTAINED IN
53 SUCH AUDIT IS INCONSISTENT WITH THE AUTHORITY'S SOUND FISCAL OPERATING
54 PRACTICES, ANY EXISTING CONTRACTUAL OR OPERATING OBLIGATION, OR THE
55 PROVISION FOR SAFE AND ADEQUATE SERVICE, THE BOARD SHALL IMPLEMENT SUCH

1 FINDINGS AND RECOMMENDATIONS IN ACCORDANCE WITH THE TIMEFRAME SPECIFIED
2 UNDER SUCH AUDIT.
3 (D) THE BOARD OF THE AUTHORITY SHALL MAKE ANY PRELIMINARY DETERMI-
4 NATION OF INCONSISTENCY WITH RESPECT TO ANY SUCH FINDING OR RECOMMENDA-
5 TION WITHIN THIRTY DAYS OF RECEIPT OF THE AUDIT, WITH NOTICE AND THE
6 BASIS OF SUCH DETERMINATION BEING PROVIDED TO THE DEPARTMENT OF PUBLIC
7 SERVICE. SUCH NOTICE AND BASIS SHALL BE POSTED CONTEMPORANEOUSLY ON THE
8 AUTHORITY'S WEBSITE AND THE BOARD SHALL, WITHIN THIRTY DAYS OF SUCH
9 POSTING AND WITH DUE ADVANCE NOTICE TO THE PUBLIC, HOLD A PUBLIC HEARING
10 WITH RESPECT TO ITS PRELIMINARY DETERMINATION OF INCONSISTENCY. AT SUCH
11 HEARING THE DEPARTMENT OF PUBLIC SERVICE OR THE INDEPENDENT AUDITOR
12 RESPONSIBLE FOR UNDERTAKING SUCH AUDIT SHALL PRESENT THE BASIS FOR ITS
13 FINDINGS AND RECOMMENDATIONS AND THE BOARD SHALL PRESENT THE BASIS FOR
14 ITS DETERMINATION OF INCONSISTENCY. THE AUTHORITY AND AUDITOR MAY DURING
15 THE TIME PERIOD PRIOR TO SUCH PUBLIC HEARING REACH AGREEMENT ON DISPUTED
16 ISSUES. WITHIN THIRTY DAYS AFTER SUCH PUBLIC HEARING, THE BOARD OF THE
17 AUTHORITY SHALL ANNOUNCE ITS FINAL DETERMINATION AND PLANNED IMPLEMENTA-
18 TIONS WITH RESPECT TO ANY SUCH FINDINGS AND/OR RECOMMENDATIONS. THE
19 BOARD'S FINAL DETERMINATION OF INCONSISTENCY SHALL BE SUBJECT TO ANY
20 APPLICABLE JUDICIAL REVIEW PROCEEDING, INCLUDING REVIEW AVAILABLE UNDER
21 ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES.
22 S 4. This act shall take effect immediately.