STATE OF NEW YORK

2960

2017-2018 Regular Sessions

IN SENATE

January 18, 2017

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to creating the Albany county renewable energy authority

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Article 5 of the public authorities law is amended by adding a new title 10-E to read as follows:

TITLE 10-E
ALBANY COUNTY RENEWABLE ENERGY AUTHORITY
Section 1233. Short title.
1234. Definitions.
1235. Albany county renewable energy district.
1236. Albany county renewable energy authority.
1237. Powers of the authority.
1238. Power to furnish service within district.
1239. Sale of surplus.
1240. Bonds and notes of the authority.
1241. Remedies of bondholders.
1242. State and county not liable on bonds and notes.
1243. Agreements of the state.
1244. Bonds legal investments for fiduciaries.
1245. Exemption from taxes.
1246. Tax contract by the state.
1247. Payments by municipalities.
1248. Duty of authority to maintain and operate.
1249. Transfer of officers and employees.
1250. Officers and employees not to be interested in transactions.
1251. Contracts.

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

LBD07537-01-7

1252. Audit.
1253. Actions against authority.
1254. Separability clause.
1255. Inconsistent provisions in other acts superseded.

§ 1233. Short title. This title may be cited as the "Albany County Renewable Energy Authority Act".

§ 1234. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the Albany county renewable energy authority created by section twelve hundred thirty-six of this title.

2. The term "bonds" shall mean bonds, notes or other evidences of indebtedness issued by the authority pursuant to this title.

3. The term "comptroller" shall mean the comptroller of the state.

4. The term "civil service commission" shall mean the civil service commission of the county of Albany.

5. The term "county" shall mean the county of Albany.

6. The term "district" shall mean the Albany county renewable energy district created by section twelve hundred thirty-five of this title.

7. The term "county legislature" shall mean the county legislature of the county of Albany.

8. The term "county executive" shall mean the county executive of the county of Albany.

9. The term "properties" shall mean the power distribution system or systems of the authority, whether situated within or without the territorial limits of the district, including the production facilities, plants, works, structures, poles, lines, conduits, mains, systems, instrumentalities or part thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, transmission facilities and distribution facilities, or any other property incidental to and included in such system or part thereof, and any improvements, extensions or betterments.

10. The term "municipalities" shall mean any county, city, town, village, school district, and any other political subdivision of the state.

11. The term "renewable energy" shall mean energy generated by solar, wind, hydro, geothermal or tidal.

12. The term "revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived from the operation of the properties of the authority including, but not limited to, investment proceeds and proceeds of insurance, condemnation, and sales or other disposition of assets, together with all federal, state or municipal aid.

13. The term "state" shall mean the state of New York.

§ 1235. Albany county renewable energy district. There is hereby defined and established an area to be known as the "Albany county renewable energy district," which shall embrace all the territory located within the county.

§ 1236. Albany county renewable energy authority. 1. There is hereby created and established a public corporation, to be known as the "Albany county renewable energy authority". The authority shall be a body corporate and politic constituting a public benefit corporation, the objects of which in the judgment of the legislature cannot be attained under general laws.

2. The authority shall have the power to acquire such real estate and other property as may be necessary for its corporate purposes, to sue and be sued, to incur debts, liabilities and obligations, to issue bonds

and other evidences of indebtedness, to have a seal, and to exercise all powers authorized by this title and reasonably necessary for accomplishing its purposes, or properly incidental thereto, subject to the provisions herein contained and to the constitution and laws of the United States and of the state.

3. The authority and its existence shall continue for a period of twelve years and thereafter until all its liabilities have been met and its bonds have been paid in full or such liabilities and bonds have otherwise been discharged and thereupon all rights and properties of the authority then remaining shall pass to and be vested in the county.

4. The authority shall consist of five members, to be residents of the county and be appointed by the county executive with the advice and consent of the county legislature. The term of office of a member shall be five years, but in the first instance such members shall be appointed to hold office, one for one year, one for two years, one for three years, one for four years and one for five years, the term of each to be fixed by the resolution making the appointment. Upon resignation of a member, or a vacancy occurring in any other manner, it shall be filled by appointment for the unexpired term. In other respects, all vacancies shall be filled in the manner corresponding to the original appointment.

5. The members of the authority may appoint an executive committee of not less than three members and may delegate full powers to such committee. They may appoint such other committees of not less than three members each with such powers as they may provide. They may elect one of the members as a chairperson and may elect or appoint other officers and determine their powers. They may by a vote of a majority of members adopt by-laws and provide for their annual and regular meetings and for the calling of special meetings. The treasurer of the county shall be ex-officio treasurer of the authority. Each member before entering upon the duties of his or her office shall take the constitutional oath of office, which shall be filed in the office of the secretary of state. Three members shall constitute a quorum for the transaction of business and the concurrence of three members at a meeting shall be necessary to the validity of any resolution, order or determination. Any member may be removed by the county executive for inefficiency, neglect of duty or misconduct in office, after a hearing upon charges and an opportunity to be heard in person or by counsel upon not less than ten days' notice. The members shall serve without compensation.

6. No public officer or employee shall be ineligible for appointment as a member or officer of the authority and any public officer or employee may accept such appointment and serve as a member or officer without forfeiture of any other public office or position of public employment by reason thereof. Any one or more members or officers of the authority may be an officer or employee of the county. In the event that an officer or employee of the county shall be appointed as a member or officer of the authority, acceptance or retention of such appointment shall not be deemed a forfeiture of his or her county office or employment, or incompatible therewith or affect his or her tenure or compensation in any way.

7. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county and the state of New York, and that said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

8. Neither the public service commission nor any other board or commission of like character, shall have jurisdiction over the authority in the management and control of its properties or operations or any power over the regulation of rates fixed or charges collected by the authority except as otherwise provided in this subdivision.

(a) The authority's rates, services and practices with respect to power and energy purchased from the power authority of the state of New York shall be subject to regulation by such power authority pursuant to the provisions of the power authority act and any contract between the two authorities.

(b) The authority's rates, services and practices with respect to power and energy that is either (i) generated or produced by a facility owned, operated or managed by the authority, or (ii) purchased by the authority from sources other than the power authority of the state of New York shall be subject to regulations of the public service commission under the provisions of the public service law.

§ 1237. Powers of the authority. The power conferred by this title shall be exercised by the members of the authority, subject to the terms of this title. In the exercise of those powers, either directly or through its officers and employees, the members may do the following things, among others, and the following list of powers shall not be deemed complete or exclusive, or to deny the existence of other powers, whether similar or different, so long as they are reasonably necessary for accomplishing the purposes declared and indicated in this title:

1. To determine the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any generation, transmission or distribution facilities or other structures or properties, within or without the territorial limits of the district;

2. To acquire on behalf and in the name of the authority, whether by agreement with and purchase from the owner or owners, or within the district by eminent domain, or by lease, the whole or any part of any existing facilities or of any other property which it is authorized to acquire under this title; provided, however, that the authority may not acquire real property of a municipality or a political subdivision of the state unless such municipality or political subdivision shall consent thereto; and in connection with the purchase of such properties the authority may assume any obligations of the owner of such properties and, to the extent required by the terms of any indentures or other instruments under which such obligations were issued, the authority may assume and agree to perform covenants and observe restrictions contained in such instruments; and furthermore the owner of any properties, which the authority is authorized to acquire, is hereby authorized to sell or otherwise transfer the same to the authority. In the exercise of the power of eminent domain, as herein provided, the property being acquired shall be deemed, when so determined by the authority, to be for a public use;

3. To develop, acquire, construct, reconstruct, rehabilitate and improve facilities for the production, transmission or distribution of light, heat, power or any connected service;

4. To maintain, operate and manage, and contract for the maintenance, operation and management of properties of the authority;

5. To apply to the appropriate agencies and officials of the federal, state and local governments for such licenses, permits or approvals for its plans and projects as it may deem necessary or advisable, and upon such terms and conditions as it may deem appropriate to accept, in its

discretion, such licenses, permits or approvals as may be tendered to it by such agencies and officials;

6. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys, soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damages done;

7. Subject to its agreement with the county, to generate, supply and sell light, heat and power and any connected services within the district, to fix rates and charges for the furnishing or rendition of light, heat or power or of any connected service, and to collect through bills therefor the revenues derived therefrom, so as to provide revenues to the authority sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds of the authority together with the maintenance of proper reserves therefor, in addition to paying as the same shall become due the expense of operating and maintaining the properties of the authority together with proper reserves for maintenance, contingencies and all other obligations and indebtedness of the authority;

8. To adopt, revise and amend bylaws for the management of its affairs and, subject to agreements with bondholders, rules for the sale of light, heat or power or of any connected service, and the collection of rates and charges therefor. A copy of such rules and bylaws, and all amendments thereto, duly certified by the secretary of the authority, shall be filed in the office of the county clerk;

9. To enter into cooperative agreements with other authorities, municipalities, utility companies, individuals, firms, cooperatives or corporations for the interconnection of facilities and the exchange or interchange of services and commodities, upon such terms and conditions as shall be determined to be reasonable;

10. To execute contracts, borrow money, issue bonds and sell or dispose of the same in such amounts and at such rates of interest as may be advisable;

11. To appoint and remove a secretary and such clerical, engineering, legal and other professional assistants as it may deem necessary for the purposes of this title and to fix their compensation, subject to the provisions of the civil service law;

12. To appoint and remove all employees, to transfer employees from their positions to other positions and to consolidate or abolish such positions, subject to the provisions of the civil service law;

13. To make any plans, studies or investigation which it may deem necessary, convenient or desirable to enable it effectually to carry out the provisions of this title;

14. Within ninety days of the first sale of light, heat or power or any connected service, to promulgate regulations granting to residential customers, the protections afforded by article two of the public service law and section one hundred thirty-one-s of the social services law; and

15. To do whatever may be necessary to give effect to the purposes of this title, and in general to have and exercise all other powers necessary or incidental to the purposes of this title.

§ 1238. Power to furnish service within district. The authority shall have power to construct or acquire, and to equip, own and operate, within or without the territorial limits of the district, any properties and any and all other real and personal property, used, connected with or appertaining to the generation, furnishing and transmission of electric current for light, heat and power, for the purpose of furnishing such service to the district and to any corporate or natural persons in such

district and also, for such purpose, to purchase electrical energy from the power authority of the state of New York, or from any state agency, or from any municipality or cooperative, or from any private or public corporation.

§ 1239. Sale of surplus. Whenever any electrical energy which the authority may generate or acquire creates a surplus over the amount of light, heat and power, in any of such services, required by the residents of the district to which such service is contracted, the authority may sell such surplus in territory outside the district to persons or public or private corporations. In acquiring any facility or property which also serves any municipality or territory outside the district, the authority, if it deems it advantageous and economical so to do, may, with the consent of the members of the authority, serve any such municipality or territory or sell heat, power or electrical energy to persons, public or private corporations in such territory or to such municipality.

§ 1240. Bonds and notes of the authority. 1. The authority shall have the power and is hereby authorized from time to time to issue bonds in conformity with applicable provisions of the uniform commercial code for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by the pledge of the revenues of the authority or by lien on the property of the authority. The authority shall have power from time to time whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its corporate purposes. Bonds issued by the authority may be general obligations secured by the faith and credit of the authority or may be special obligations payable out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject only to any agreements with the holders of outstanding bonds pledging any particular moneys, earnings or revenues.

2. The authority is authorized to obtain from any department or agency of the United States of America or the state or any nongovernmental insurer or financial institution any insurance, guaranty or other credit support device, to the extent now or hereafter available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds issued by the authority and to enter into any agreement or contract with respect to any such insurance or guaranty, except to the extent that the same would in any way impair or interfere with the ability of the authority to perform and fulfill the terms of any agreement made with the holders of outstanding bonds of the authority.

3. The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, except that bonds and any renewal thereof shall mature within forty years of the date of their original issuance and notes and any renewal thereof shall mature within five years of the date of their original issuance, bear interest at such rate or rates per annum payable at such times, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in such medium of payment at such place or places and be subject to such terms and conditions, as such resolution or resolutions may provide. Such bonds of the authority may be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of bonds may be sold

at private sale unless the terms of such sale shall have been approved in writing by (a) the comptroller, where such sale is not to such comptroller, or (b) the director of the budget, where such sale is to such comptroller. The foregoing provisions shall be applicable to bonds issued by the authority notwithstanding the provisions of any other general, special or local law to the contrary.

4. Any resolution or resolutions of the authority authorizing any bonds or any issue of bonds may contain provisions, which may be a part of the contract with the holders of the bonds thereby authorized, as to:

(a) pledging all or any part of the revenues of the authority, together with any other moneys, securities, contracts or property of the authority to secure the payment of the bonds or of any issue of the bonds, subject to such agreements with bondholders as may then exist;

(b) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues;

(c) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof;

(d) limitations on the right of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued;

(e) limitations in the purposes to which the proceeds of sale of any issue of bonds may be applied and pledging such proceeds to secure the payment of the bonds or any issue of the bonds;

(f) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding or other bonds;

(g) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, including the proportion of bondholders which must consent thereto and the manner in which such consent may be given;

(h) the creation of special funds into which any revenues or other moneys of the authority may be deposited;

(i) the terms and provisions of any mortgage or trust deed or indenture securing the bonds or under which bonds may be issued;

(j) vesting in a trustee or trustees such properties, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of the trustee appointed by the bondholders pursuant to section twelve hundred forty-one of this title, and limiting or abrogating the right of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) defining the acts or omissions to act which may constitute a default in the obligations and duties of the authority to the bondholders and providing for the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided, however, that such rights and remedies shall not be inconsistent with the general laws of the state and other provisions of this title;

(l) limitations on the power of the authority to sell or otherwise dispose of its properties or any part thereof;

(m) limitations on the amount of moneys or revenues to be expended for operating, administrative or other expenses of the authority;

(n) the payment of the proceeds of bonds, revenues and other moneys to a trustee or other depositary, and for the method of disbursement there-

of with such safeguards and restrictions as the authority may determine; and

(o) any other matters, of like or different character, which may in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

5. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including the mortgaging of any of its properties and the entrusting, pledging or creation of any other security interest in any such revenues, moneys or properties and the doing of any act, including refraining from doing any act, which the authority would have the right to do in the absence of such agreements. The authority shall have power to enter into amendments of any such agreements within the powers granted to the authority by this title and to perform such agreements. The provisions of any such agreements may be made a part of the contract with the holders of bonds of the authority.

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. Neither the resolution nor any other instrument by which such pledge or security interest is created nor any financing statement relating thereto need be recorded or filed.

7. Whether or not the bonds of the authority are of such form and character as to be negotiable instruments under the terms of the uniform commercial code, the bonds are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

8. Neither the members nor officers of the authority, nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any funds available therefor to purchase bonds of the authority, which shall thereupon be cancelled.

10. The authority shall have power and is hereby authorized to issue negotiable bond anticipation notes in conformity with applicable provisions of the uniform commercial code and may renew the same from time to time but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the bonds and such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes may

be sold at public or private sale for such price or prices as the authority shall determine, provided that no issue of notes may be sold at private sale unless the terms of such sale shall have been approved in writing by (a) the comptroller, where such sale is not to such comptroller, or (b) the director of the budget, where such sale is to such comptroller.

§ 1241. Remedies of bondholders. 1. In the event that the authority shall default in the payment of principal of or interest on any issue of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days, or in the event that the authority shall fail or refuse to comply with the provisions of this title, or shall default in any agreement made with the holders of any issue of the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county of Albany and proved or acknowledged in the same manner as a deed to be recorded, may appoint a trustee to represent the holders of such bonds for the purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds then outstanding shall, in his, her or its own name:

(a) by action or proceeding in accordance with the civil practice law and rules, enforce all rights of the bondholders and require the authority to carry out any agreements with the holders of such bonds and to perform its duties under this title;

(b) bring an action or proceeding upon such bonds;

(c) by action or proceeding, require the authority to account as if it were the trustee of an express trust for the holders of such bonds;

(d) by action or proceeding in equity, enjoin any acts or things which may be unlawful or in violation of the rights of the holders of such bonds;

(e) declare all such bonds due and payable, and if all defaults shall be made good then with the consent of the holders of twenty-five per centum of the principal amount of such bonds then outstanding, annul such declaration and its consequences.

3. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of bondholders. The venue of any such action or proceeding shall be laid in the county.

4. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days' notice in writing to the authority.

5. Any such trustee whether or not the issue of bonds represented by such trustee has been declared due and payable, shall be entitled as of right to the appointment of a receiver of any part or parts of the properties the revenues of which are pledged for the security of the bonds of such issue and such receiver may enter and take possession of such part or parts of the properties and subject to any pledge or agreement with bondholders shall take possession of such part or parts of such properties and proceed with any construction thereon or the acquisition of any property, real or personal in connection therewith which the authority is under obligation to do, and to operate, maintain and reconstruct such part or parts of the properties and collect and receive all revenues thereafter arising therefrom subject to any pledge thereof or agreement with bondholders relating thereto and perform the public duties and carry out the agreements and obligations of the authority under the direction of the court. In any suit, action or proceeding by the trustee the fees, counsel fees and expenses of the trustee and of

the receiver, if any, shall constitute taxable disbursements and all costs and disbursements allowed by the court shall be a first charge on any revenues derived from the properties.

6. Such trustees shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

§ 1242. State and county not liable on bonds and notes. The bonds and other obligations of the authority shall not be a debt of the state or of the county and, subject to section twelve hundred forty-seven of this title, the county legislature shall have no power to make them payable out of any funds except those of the authority.

§ 1243. Agreements of the state. The state does pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not limit or alter the rights hereby vested in the authority to establish and collect the revenues and other charges referred to in this title and to fulfill the terms of any agreements made with or for the benefit of the holders of the bonds, or in any way impair the rights and remedies of the bondholders, until the bonds, together with interest thereon, with interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders, are fully met and discharged.

§ 1244. Bonds legal investments for fiduciaries. The bonds are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

§ 1245. Exemption from taxes. 1. It is hereby determined that the creation of the authority and the carrying out of its corporate purposes is in all respects for the benefit of the people of the county and its environs, and is a public purpose, and the authority shall be regarded as performing a governmental function in the exercise of the powers conferred upon it by this title and shall not be required to pay any taxes, special ad valorem levies or special assessments upon any of the properties acquired by it or under its jurisdiction or control or supervision or upon its activities or any filing, recording or transfer fees or taxes in relation to instruments filed, recorded or transferred by it or on its behalf.

2. Any bonds issued pursuant to this title, together with the income therefrom, shall be exempt from taxation except for estate and transfer taxes. The revenues, moneys and all other properties of the authority shall be exempt from all taxes and governmental fees or charges, whether imposed by the state or any municipality, including without limitation real estate taxes, franchise taxes, sales taxes or other excise taxes.

§ 1246. Tax contract by the state. The state covenants with the purchasers and with all subsequent holders and transferees of bonds or notes issued by the authority pursuant to this title, in consideration of the acceptance of and payment for the bonds that the bonds of the authority issued pursuant to this title and the income therefrom shall be exempt from such taxation, pursuant to subdivision two of section twelve hundred forty-five of this title, and that all moneys, funds and revenues pledged to pay or secure the payment of such bonds shall at all times be free from such taxation pursuant to such subdivision.

§ 1247. Payments by municipalities. The county legislature and the governing body of any municipality in which surplus of the authority is sold pursuant to section twelve hundred thirty-nine of this title are authorized to make payments to the authority for its support. It is hereby determined that such payments are for a public purpose for the benefit of the people of such county and such municipalities.

§ 1248. Duty of authority to maintain and operate. It shall be the duty of the authority, subject to any limitation on the amount of revenues to be expended for such purpose, to maintain and operate and where necessary to reconstruct its properties.

§ 1249. Transfer of officers and employees. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board or department by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority. But notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund, system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers or employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. It is hereby declared that in the interest of efficiency and insofar as may be practicable, all employees engaged in the operation of any property or properties, except in an executive capacity, at the time such property or properties shall have been acquired by the authority, pursuant to the provisions of this title, shall become the employees of the authority. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to such authority.

§ 1250. Officers and employees not to be interested in transactions. It shall be a misdemeanor for any of the members of the authority, or any officer, agent, servant or employee thereof, employed or appointed by them to be in any way or manner interested directly or indirectly in the furnishing of work, materials, supplies or labor, or in any contract therefor which the authority is empowered by this title to make.

§ 1251. Contracts. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction or any procurement shall be awarded by the authority pursuant to resolution.

Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure for more than fifty thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest responsible bidder. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him or her on his or her bid or proposal, or, if he or she accepts but does not execute the contract and give proper security the authority shall have the right to declare his or her deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interests of the authority be thereby served, adopt on behalf of the authority any or all sub-contracts made by such contractor for such work and all such sub-contractors shall be bound by such adoption if made; and the authority shall in the manner provided herein readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the sub-contract or sub-contracts so adopted. No bid shall be accepted from or any contracts awarded to, any person or corporation who is in arrears to the authority, or the county upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor.

§ 1252. Audit. The accounts of the authority shall be subject to the supervision of the comptroller.

§ 1253. Actions against authority. 1. In any action founded upon tort a notice of claim shall be required as a condition precedent to the commencement of an action or special proceeding against the authority or any officer, appointee, agent or employee thereof, and the provisions of section fifty-e of the general municipal law shall govern the giving of such notice.

2. Except in an action for wrongful death, an action against the authority founded on tort shall not be commenced more than one year and ninety days after the cause of action therefor shall have accrued. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

§ 1254. Separability clause. If any section, clause or provision of this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, in its terms or in its operation, to the extent that it is not unconstitutional or ineffective it shall be

valid and effective and no other section, clause or provision shall on account thereof be deemed invalid or ineffective.

§ 1255. Inconsistent provisions in other acts superseded. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, the provisions of this title shall be controlling.

§ 2. This act shall take effect immediately.