STATE OF NEW YORK

7273

IN SENATE

January 15, 2020

Introduced by Sen. JACKSON -- read twice and ordered printed, and when printed to be committed to the Committee on Energy and Telecommunications

AN ACT to amend the public authorities law, in relation to establishing the downstate New York power authority, and providing for its powers and duties

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 1-C to read as follows:

TITLE 1-C

DOWNSTATE NEW YORK POWER AUTHORITY

Section 1022. Short title.

1022-a. Definitions.

1022-b. Downstate New York power authority.

1022-c. Downstate New York power authority service area; extension of service area.

1022-d. Powers and duties of the authority.

1022-e. Acquisition of property, including the exercise of the power of eminent domain.

1022-f. Deposit and investment of moneys of the authority.

1022-g. Conflicts of interest.

1022-h. Sale of surplus power.

1022-i. Audit and annual reports.

1022-j. Bonds, notes and other obligations of the authority.

1022-k. State and municipalities not liable on bonds or notes or other obligations.

1022-l. Agreement of the state.

1022-m. Exemption of the authority from taxation.

1022-n. Actions against the authority.

1022-o. Equal employment opportunity.

1022-p. Limitation of liability; indemnification.

1022-q. Website.

1022-r. Prevailing wage.

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

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1022-s. Periodic review by legislature.
1022-t. Severability.

§ 1022. Short title. This title shall be known and may be cited as the "downstate New York power authority act".

§ 1022-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Acquire" means, with respect to any right, title or interest in or to any property, either the act of taking by the exercise of the power of eminent domain, or the acquisition by purchase or otherwise.

2. "Act" means the downstate New York power authority act, being this title.

3. "Authority" means the downstate New York power authority established by section one thousand twenty-two-b of this title.

4. "Commission" means the public service commission.

5. "Comptroller" means the state comptroller.

6. "Downstate service area" or "service area" means the counties of Bronx, Kings, New York, Richmond, Queens, Dutchess, Putnam, Sullivan, Orange, Rockland, Ulster, and Westchester.

7. "Downstate utility corporation" means any private gas corporation, electric corporation, or combined gas and electric corporation, as such terms are defined in section two of the public service law, that has a portion of its service territory within the downstate service area. This shall not include the Long Island power authority, the public benefit corporation created by section one thousand twenty-c of the public authorities law, as added by chapter five hundred seventeen of the laws of nineteen eighty-six, or any municipality that provides gas or electric service.

8. "Federal government" means the United States of America and any agency or instrumentality, corporate or otherwise, of the United States of America.

9. "Final determination" or "finally determined" means a judicial decision (a) by the highest court of competent jurisdiction, or (b) by a court of competent jurisdiction from which no appeal has been taken and the time within which to appeal has expired.

10. "Municipality" means any county, city, town, village, municipal corporation, school district or other political subdivision of the state, including any agency, authority or public corporation of the state or any of the foregoing, or any combination thereof, other than the authority.

11. "Property" means the power distribution system or systems of the authority, whether completed facilities or projects in construction, whether situated within or without the territorial limits of the service area, including the plants, works, structures, poles, lines, conduits, mains, systems, instrumentalities or parts thereof and appurtenances thereto, lands, franchises and interest in land, including lands under water and riparian rights, space rights and air rights, contract rights, substations, and distribution facilities, or any other property incidental to and included in such system or part thereof, and any improvements, extensions or betterments. The term "property" shall also include any and all interests in real property less than full title, such as easements, rights of way, uses, leases, licenses and all other incorporeal hereditaments and every estate, interest or right, legal or equitable, including terms for years and liens thereon by way of judgments, mortgages or otherwise, and also all claims for damages related to such real estate.

12. "Revenues" means all rates, rents, fees, charges, payments and other income and receipts derived by the authority from the operation of the properties of the authority other than the proceeds of the sales of its securities, 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. "Security" means any bond, note or other obligation issued by the authority.

14. "State" means the state of New York.

15. "State agency" means any board, authority, agency, department, commission, public corporation, body politic or instrumentality of the state.

16. "Trustees' means the board of trustees of the authority.

§ 1022-b. Downstate New York power authority. 1. A corporation known as the downstate New York power authority is hereby established and charged with the duties and having the powers provided in this title. The authority shall be a state authority, a body corporate and politic constituting a public benefit corporation, a political subdivision of the state, exercising governmental and public powers, perpetual in duration, capable of suing and being sued and having a seal, and which shall have the powers and duties enumerated in this title, together with such others as may be conferred upon it by law.

2. Trustees. (a) The authority shall consist of a board of nine trustees, who shall be elected from districts established by the legislature. Each elected trustee shall be a resident of the district from which he or she is elected. No person who is an elected or appointed official of the state or any municipality or any agency or instrumentality thereof, shall be qualified to serve as an elected trustee. Each trustee shall hold office until his or her successor has been elected. In the event of a vacancy occurring in the office of a trustee by death, resignation or otherwise, a successor shall be chosen to hold office for the unexpired term in the manner prescribed by the election law.

(b) Within one hundred eighty days, and each tenth year thereafter, the legislature shall establish nine districts, which shall be equal in population as determined by the last federal decennial census.

(c) Such trustees shall be elected in elections conducted by the board of elections pursuant to applicable provisions of the election law. The first such election shall be held on the first Tuesday in November two thousand twenty, and the trustees so elected shall take office on January first, two thousand twenty-one. At such election three trustees shall be elected for a term of one year, three shall be elected for a term of three years, and three shall be elected for a term of five years. Each such term shall end December thirty-first of the last year thereof. No later than July first, two thousand twenty and each subsequent year in which reapportionment or readjustment of such districts takes place, the state board of elections shall determine by lot which such trustees shall be elected for which terms. Thereafter, three trustees shall be elected on the first Tuesday in November of each year to replace the trustees whose terms will expire at the end of the year, for terms of three years each except that all trustees shall be elected at the first election held after a reapportionment or readjustment of such districts. No political party shall be entitled to nominate candidates for the office of trustee at any such election.

3. The trustees shall serve without compensation but shall be entitled to reimbursement of their actual and necessary expenses incurred in the performance of their official duties, as may be authorized by the trus-

tees, in each case upon appropriate documentation by the submitting trustee. No trustee or any entity, the majority of which is owned or controlled by any trustee, shall receive any additional compensation from the authority or be employed by the authority in any other capacity by whatever means.

4. Five trustees shall constitute a quorum for the transaction of business, and the affirmative vote of five trustees at a meeting shall be necessary to the validity of any resolution, order or determination. The trustees, in by-laws or by resolution, may allow for attendance at a meeting of the trustees by speaker phone or any other electronic means by which all meeting participants can hear one another.

5. The trustees shall appoint an executive committee of not less than three trustees and shall delegate such duties and responsibilities of the trustees to the executive committee as it may determine from time to time, except that the trustees shall not delegate to the executive committee the power to authorize the issuance of securities. The trustees may appoint such additional committees with such duties and responsibilities as they may determine from time to time.

6. (a) The trustees shall from time to time select such officers and employees, including a chief executive officer and such engineering, management and legal officers, and other professional employees, including but not limited to accounting, planning, construction, finance, appraisal, banking and trustee services, as the trustees may require for the performance of their duties and shall prescribe the duties and compensation of each such officer and employee. Such compensation shall be reasonable and commensurate to the duties of the position of such officer or employee.

(b) If any employees are hired as a consequence of an acquisition of the assets of a downstate utility corporation, they shall be hired subject and be entitled to all applicable provisions of (i) any existing contract or contracts with labor unions and (ii) all existing pension or other retirement plans. Notwithstanding the provisions of any general, special or local law, the board may determine that such class of employees of the authority may elect to become members of the New York state employees' retirement system on the basis of compensation payable to them by the authority.

7. (a) The authority shall be subject in all respects to the general supervision and jurisdiction of the public service commission in the same manner as an electric corporation is subject to the jurisdiction of the public service commission under the public service law.

(b) The authority shall not make any commitment, enter into any agreement nor incur any indebtedness unless prior approval has been received from the New York state public authorities control board pursuant to article one-A of this chapter.

(c) In addition to all of the powers of the public service commission, prior to acquiring any property and commencing operations, the authority shall secure an order from the commission authorizing such acquisition and commencement. The commission shall have the power to deny the authority's application to acquire property and commence operations. The authority shall comply with any and all requests for documents, materials, and testimony that the commission may seek. The commission shall consider, including but not limited to, the following factors before issuing an order: ratepayer impacts; system reliability; environmental impacts, conservation of energy resources; preservation or creation of economic opportunities; power efficiency and availability; public health and welfare; and any other factor it deems relevant. The authority

granted pursuant to this paragraph shall terminate upon commencement of distribution of power.

8. The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have securities outstanding, unless adequate provision has been made for the payment thereof.

9. In the event that the authority does not commence delivering electric power within ten years of the effective date of this title, the authority shall cease to exist and the provisions of this title shall be of no further force and effect, subject to the terms of any bonds, notes or other debt obligations then outstanding.

§ 1022-c. Downstate New York power authority service area; extension of service area. 1. The service area of the downstate New York power authority shall embrace the service territory of any downstate utility corporation located within the downstate service area.

2. The service area of the downstate New York power authority may be extended at any time to include additional territory by the trustees in accordance with the following procedure, provided however, the procedure does not conflict with any rule or regulation of the public service commission or any other law. Whenever the trustees determine that the territory included within the service area should be extended, consistent with the provisions of this title, the trustees shall adopt a resolution proposing the additional territory. The trustees shall fix the dates, hours and places for three public hearings before such trustees upon the question of such extension and cause notice thereof and of the additional territory to be included within the service area to be published in two newspapers of general circulation in the county not less than twenty nor more than thirty days before such date. At least one of such hearings shall be held within the bounds of the proposed additional territory. At such time the trustees shall hear all persons, taxpayers or officials who may wish to be heard and shall finally determine the additional territory, if any, to be included in such extension. Such determination shall be made by resolution of the trustees adopted by a two-thirds vote of all trustees then in office. A map of the service area, as extended, shall thereupon be filed in the office of the county clerk of the affected counties.

§ 1022-d. Powers and duties of the authority. The powers conferred by this title shall be exercised by the trustees, subject to the terms of this title. In the exercise of those powers, either directly or through its officers and employees, the trustees 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 make and alter by-laws for the regulation of its affairs and conduct of its activities, to schedule annual, regular and special meetings of the trustees, as the conduct of the business of the authority may warrant, and to adopt and amend an official seal;

2. To develop, acquire, construct, reconstruct, rehabilitate and improve facilities for the distribution of electric power or any connected service;

3. To determine the location, type, size, construction, lease, purchase, ownership, acquisition, use and operation of any facilities or other structure or property, within or without the service area;

4. To investigate, implement and integrate, to the fullest extent practicable and economically feasible, such resource conservation and

energy efficiency measures and equipment intended to reduce power demand and usage, utilize green technologies, alternative and renewable fuels, net metering, crediting mechanisms for distributed energy resources and demand response programs, all as integral elements in its investments in new equipment for distribution of power, and in its marketing and sale of electricity to consumers;

5. To acquire on behalf of and in the name of the authority, whether by agreement with and purchase from the owner or owners, or by arbitration, or within the service area by eminent domain, pursuant to the procedures set forth in the eminent domain procedure law, or by lease, the whole or any part of any existing facilities or of any other property to be used in connection with power distribution by the authority as set out in this title; provided, however, that the authority shall not acquire real property of a municipality or a political subdivision of the state unless such municipality or political subdivision shall consent thereto; and provided further that the authority shall not acquire by the exercise of eminent domain any transmission or generation facilities; and provided further that the authority shall not acquire by the exercise of eminent domain any facilities for distribution operating at a voltage in excess of twenty-two thousand volts from any person, corporation or association, public or private, engaged in the business of distribution and sale of electricity to ultimate customers unless the authority is unable to acquire by contract with the owners or operators thereof, the right to use such facilities on just, reasonable and non-discriminatory terms. In the exercise of the power of eminent domain, as provided in this subdivision, the property being acquired shall be deemed, when so determined by the authority, to be for a public use;

6. To distribute electric power and any connected services within the service area, to fix progressive rates and charges for the furnishing or rendition of electric power or of any connected service, and to collect revenues. Provided however, that prior to the first sale of electric power or any connected service, the authority shall promulgate regulations granting to customers the protections afforded by article two of the public service law and section one hundred thirty-one-s of the social services law;

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

8. 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;

9. 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;

10. To enter into cooperative agreements with other authorities, municipalities, utility companies, individuals, firms or corporations, and the dominion of Canada and its political subdivisions, for the interconnection of facilities and the exchange or interchange of electric power or connected services, upon such terms and conditions as shall be determined to be reasonable;

11. To execute contracts, borrow money, issue bonds, notes and other obligations as provided in section one thousand twenty-two-i of this

title, and sell the same in such amounts and at such prices, interest rates and other financial terms as may be determined by the trustees;

12. To enter into agreements to purchase power from the power authority of the state of New York, the state, any state agency, any municipality, any private entity or any other available source at such price or prices as may be negotiated, including the power to enter into any agreement or any negotiation for the purchase of power from the dominion of Canada, or any political subdivision, public authority or private corporation therein;

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

14. 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.

§ 1022-e. Acquisition of property, including the exercise of the power of eminent domain. 1. The legislature hereby expressly finds and determines:

(a) The acquisition by the authority, through purchase or the exercise of the power of eminent domain, of either the securities or assets of a downstate utility corporation whichever is less expensive for the ratepayers, as the authority may determine will be just to the ratepayers in the service area, is the most appropriate means of dealing with the emergency involving the economy, health and safety of the residents and the industry and commerce in the service area, notwithstanding the fact that such downstate utility corporation presently may be devoted to a public use, since the public use of such property by the authority is hereby deemed to be superior to the public use of such property by any other person, association, or corporation.

(b) The authority, prior to exercising its power of eminent domain to acquire the stock or assets of a downstate utility corporation, shall enter into negotiations with such downstate utility corporation for the purpose of acquiring such stock or assets upon such terms as the authority, in its sole discretion, determines will result in rates equal to or less than the rates which would result if such downstate utility corporation were to continue in operation.

(c) The compensation paid by the authority to a downstate utility corporation shall be just to the ratepayers in the service area who must pay such compensation.

(d) If the authority determines that it is the stock of a downstate utility corporation that should be taken, the proper measure of damages shall be the fair market value thereof as evidenced by the price of such stock on the exchange on which it is traded on the valuation date since there is an established market for such stock that is reflective of its value. In no event, however, shall consequential or severance damages be awarded if control of such downstate utility corporation shall have been taken by the authority.

(e) If the authority determines that it is the assets of a downstate utility corporation that should be taken, fair market value would not constitute just compensation to such downstate utility corporation since there is an insufficient market in the usual sense for its assets to ascertain the value thereof from the market. In determining the compensation payable for such assets, there shall be taken into consideration the capitalization of such downstate utility corporation's expected future earnings.

(f) Neither consequential nor severance damages are proper if the authority condemns all the assets of a downstate utility corporation.

(g) Such an acquisition by the authority of the securities or assets of a downstate utility corporation serves the public purposes of assuring the provision of an adequate supply of gas and electricity in a reliable, efficient and economic manner and retaining existing commerce and industry in and attracting new commerce and industry to the service area, all of which are matters of state-wide concern.

2. In furtherance of the legislative findings and determinations set forth in subdivision one of this section, the authority is hereby authorized and empowered to acquire, through purchase or the exercise of the power of eminent domain, all or any part of the securities or assets of a downstate utility corporation, as the authority in its sole discretion may determine; provided, however, that prior to proceeding with any such acquisition under this title, the board of trustees shall determine, in its sole discretion based upon such engineering, financial and legal data, studies and opinions as it may deem appropriate, that the rates projected to be charged after such acquisition and for such reasonable period of time as the board of trustees may determine will not be higher than the rates projected to be charged by such downstate utility corporation during such period if such acquisition had not occurred.

3. The authority also is authorized and empowered, in its discretion, to make a tender offer or tender offers for all or any portion of the securities of a downstate utility corporation at such price or prices as the authority may determine to be appropriate; provided, however that such tender offer or tender offers, in the sole judgment of the authority, will result in rates less than the rates which would result from continued operation by such downstate utility corporation.

(a) The authority shall make such offer or offers or any adjustment thereof prior to acquiring any such securities or any assets of a downstate utility corporation through the exercise of the power of eminent domain. The authority may pay for such securities in cash or by exchanging therefor the authority's bonds or a combination thereof.

(b) In the case of a tender offer in which a subsidiary of the authority acquires at least sixty-six and two-thirds percent of a downstate utility corporation's common stock, such subsidiary may merge with such downstate utility corporation and either continue in existence or dissolve, as it may determine.

(c) The provisions of section five hundred thirteen and article sixteen of the business corporation law and any other provisions of law relating to procedures in a corporate takeover, including without limitation chapter nine hundred fifteen of the laws of nineteen hundred eighty-five, shall not be applicable to the actions of the authority pursuant to this title.

(d) In determining whether acceptance of such a tender offer by the authority is in the best interests of a downstate utility corporation, the directors of such downstate utility corporation shall consider not only the dollar amount of such offer but the interests of employees, suppliers, ratepayers, creditors (including holders of such downstate utility corporation's debt securities), and the economy of the service area and the state.

4. The authority, should it determine, in its sole discretion, to acquire the stock or assets of a downstate utility corporation by the exercise of the power of eminent domain, shall not take title to nor possession of such stock or assets prior to a final determination of the

amount of compensation to be paid for such stock or assets nor prior to a determination by the authority, in its sole discretion that the taking of such stock or assets will result in rates less than the rates which would result from continued operation by such downstate utility corporation. Notwithstanding the provisions of the eminent domain procedure law, the provisions of subdivisions five and six of this section shall apply to the acquisition of the stock or property of such downstate utility corporation by the power of eminent domain, provided however, to the extent the provisions herein do not supersede or conflict with the provisions of such law the provisions of such law shall apply.

5. Procedure for acquisition of a downstate utility corporation stock. (a) In the event the authority determines to acquire the stock of a downstate utility corporation by the exercise of the power of eminent domain, having first entered into negotiations with such downstate utility corporation for the purchase of such stock, the authority need not hold any public hearing on its intention to condemn such stock or on the question of the public use of such action, such finding having been made by the legislature herein. The authority shall commence such acquisition by serving upon such downstate utility corporation and filing with the county clerk of the county in which the principal office of such downstate utility corporation is located a notice describing the stock being acquired, the valuation date, as determined by the authority, and such additional information as the authority may reasonably deem necessary to facilitate the process of condemnation and payment. The notice shall state that it is a notice of pendency of an acquisition proceeding and that the authority will elect whether or not to pay the amount of such award when it has been finally determined. The authority also shall cause a copy of such notice (i) to be served upon the stock transfer agent or agents designated by such downstate utility corporation for the transfer and registration of its stock and (ii) to be published in at least five successive issues of a daily newspaper of national circulation.

(b) Upon receipt of such notice, the stock transfer agent or agents, at the expense of the authority, shall forthwith serve upon each of the registered owners of such stock a copy of such notice. Service shall be deemed sufficient if mailed by certified or registered mail to the address of each such owner as shown on a downstate utility corporation's stock transfer books. Service of the notice upon the stock transfer agent or agents and its publication shall not be jurisdictional prerequisites to the validity of the taking. Failure to notify any owner of stock to be taken will not invalidate any proceedings brought hereunder or any title acquired by the authority.

(c) Upon filing of the notice described in paragraph (a) of this subdivision, the authority shall petition a special term of the supreme court in the judicial district in which such downstate utility corporation has its principal office for the acquisition of the stock. Such petition shall be generally in the form prescribed by the eminent domain procedure law so far as consistent herewith.

(d) The supreme court in the district in which such downstate utility corporation has its principal office shall have exclusive jurisdiction to hear and determine all claims arising from the acquisition of stock by the exercise of the power of eminent domain and shall hear such claims without a jury and without referral to a referee or commissioners. Notwithstanding the provisions of section nine hundred one of the civil practice law and rules, upon motion to the court by the authority, the condemnation proceeding for the acquisition of stock shall be main-

tained as a class action, pursuant to remaining provisions of article nine of the civil practice law and rules, and the owners of the stock shall be deemed a defendant class on the basis of the following express legislative findings:

(i) the class of such downstate utility corporation stock owners is so numerous that joinder of all members is impracticable;

(ii) the issue of valuation of such downstate utility corporation stock is common to all such downstate utility corporation stock owners and there are questions of law or fact common to the members of such class which predominate over any questions affecting only individual members;

(iii) the claims or defenses, if any, of any representative owner of such downstate utility corporation stock to acquisition thereof by the authority are typical of the claims or defenses of the class;

(iv) there are representative parties who will fairly and adequately protect the interests of the class; and

(v) the prosecution of separate actions by or against individual members of the class would create a risk of inconsistent or varying adjudications with respect to the issue of valuation and other issues common to the class.

(e) The procedure for determining just compensation shall be in the manner prescribed by the eminent domain procedure law, except to the extent such procedure is inconsistent with the provisions of this title, in which case the provisions of this title shall control.

(f) Upon the entry of an award finally determining just compensation for the stock, the authority shall have sixty days after receipt of notice of entry of such award within which to elect to proceed with the taking or to abandon such acquisition as provided in subdivision nine of this subdivision. Notice of such election shall be served by the authority and by the stock transfer agent in the manner described in paragraph (a) of this subdivision. If the authority elects to proceed with the acquisition, it shall deposit with the supreme court in which the condemnation proceeding was held an amount equal to the award within one hundred eighty days after receipt by the authority of notice of entry of such award. Upon the making of such deposit, the authority shall notify such downstate utility corporation's stock transfer agent in writing of such deposit. The sum so deposited shall be applied as provided in the eminent domain procedure law. Upon making such deposit and giving such notice to the stock transfer agent, title to all stock described in the notice of taking shall immediately vest in the authority and the authority shall have the immediate right thereto. In the event the authority elects to abandon the acquisition, the provisions of subdivision nine of this section shall apply.

(g) It shall be a condition precedent to the payment of compensation for any such securities that such securities be surrendered to the supreme court or to such other entity, including the issuer's stock transfer agent, as the supreme court may direct.

6. Procedure for acquisition of a downstate utility corporation assets. (a) If the authority shall find it necessary or convenient to acquire any real or personal property of such downstate utility corporation, other than securities, whether for immediate or future use, then the authority need not determine that such property is required for public use, since the legislature already has made such determination in this title which determination shall be binding for all purposes. The authority need not publish any notice of its intention to acquire such

property or hold any public hearing with respect thereto or to the public use of such action.

(b) When any real property of such downstate utility corporation within this state is sought to be acquired by the exercise of the power of eminent domain, and after the authority shall have entered into negotiations with such downstate utility corporation for the purchase of such property, the authority shall cause a survey and map to be made thereof and shall cause such survey and map to be filed in its office and in the office of the county clerk in which such property is located. There shall be annexed to such survey and map a certificate executed by the chief engineer of the authority, or by such other officer or employee as may be designated by the board of trustees, stating that the property or interest therein described in such survey and map is necessary for its purposes.

(c) Upon filing such survey and map, the authority shall petition a special term of the supreme court in the judicial district in which the property is located for the acquisition of such property or interest therein. Such petition shall describe the property being acquired, the valuation date, as determined by the authority, and such additional information as the authority may reasonably deem necessary to facilitate the process of condemnation and payment. The petition shall state that the authority will elect whether or not to pay the amount of such award when it has been finally determined. In all other respects, such petition shall be generally in the form prescribed by the eminent domain procedure law, so far as consistent herewith. Such petition, together with a notice of pendency of the proceeding, shall be filed in the office of the county clerk of the county in which the property is located and shall be indexed and recorded as provided by law. A copy of such petition, together with a notice of the presentation thereof to such special term of the supreme court, shall be served upon the owners of such property as provided in the eminent domain procedure law. The authority may cause a duplicate original affidavit of the service thereof to be recorded in the books used for recording deeds in the office of the county clerk of the county in which the property described in such notice is located, and the recording of such affidavit shall be prima facie evidence of due service thereof.

(d) Subsequent proceedings shall be conducted generally in the manner prescribed by the eminent domain procedure law except to the extent the provisions thereof are inconsistent with the provisions of this title, in which case the provisions of this title shall control.

(e) In any proceeding involving the valuation of a downstate utility corporation's property taken by the authority, the supreme court shall ascertain and determine just compensation for the property taken as of the valuation date, giving due consideration to the applicable findings and determinations of the legislature set forth in subdivision of this section.

(f) Should a downstate utility corporation's property be taken by the exercise of the power of eminent domain and if such downstate utility corporation shall have agreed upon the compensation to be paid therefor in settlement of the proceeding, if, such downstate utility corporation shall be entitled to payment of the agreed or awarded compensation within one hundred eighty days after the date of the agreement upon the amount of the compensation or of the entry of the award, together with interest upon the amount of such compensation from the time of acquisition thereof by the authority to the date of payment of such compensation; but such interest shall cease upon the service by the authority,

upon the person or corporation entitled thereto, of a fifteen days' notice that the authority is ready and willing to pay the amount of such compensation upon the presentation of proper proofs and vouchers. Such notice shall be served personally or by registered mail and publication thereof shall be made at least once a week for three successive weeks in a daily newspaper of general circulation in the county in which such property or any part thereof is located.

(g) Upon the entry of an award finally determining just compensation for the property of such downstate utility corporation, the authority shall have sixty days after receipt of notice of entry of such award within which to elect to proceed with the taking or to abandon such acquisition as provided in subdivision nine of this section. Notice of such election shall be served by the authority on the owners of such property in the manner described in paragraph (c) of this subdivision. If the authority elects to proceed with the acquisition, it shall deposit with the supreme court in which the condemnation proceeding was held an amount equal to the award within one hundred eighty days after receipt by the authority of notice of entry of such award. Upon the making of such deposit, the authority shall notify such downstate utility corporation in writing of such deposit. The sum so deposited shall be applied as provided in the eminent domain procedure law. Upon making such deposit and giving such notice to such downstate utility corporation, title to all property described in the notice of taking shall immediately vest in the authority and the authority shall have the immediate right thereto. The order setting forth the award, together with evidence from the clerk of the court of receipt of the amount of the award, shall be filed in the office of the county clerk of the county in which the property is located and shall be indexed and recorded in the same manner as a notice of pendency under the eminent domain procedure law. The owner or person in possession of such property shall deliver possession thereof to the authority upon demand, and in case possession is not delivered when demanded or demand is not convenient because of absence of the owner or inability to locate or determine the owner, the authority may apply to the court without notice for an order requiring the sheriff to put it into possession of such real property. Such an order shall be executed as if it were an execution for the delivery of the possession of the property. In the event the authority elects to abandon the acquisition, the provisions of subdivision nine of this section shall apply.

7. At any time the authority and its duly authorized agents and employees may, on reasonable notice and during business hours, (a) enter upon any real property proposed to be acquired for the purpose of making the surveys or maps mentioned in this section, or of making such other surveys, inspections or examinations of real and personal property and (b) inspect and make copies of the books and records of the issuer of such securities, all as the authority may deem necessary or convenient for the purposes of this title.

8. Upon the acquisition of all the outstanding shares of stock of a corporate issuer representing all the voting rights and equity thereof, the authority shall as soon as reasonably practicable take all steps necessary to ensure that the rights and claims of all the holders of any other stock and debt securities and all other creditors thereof are as secure as they were immediately prior to the acquisition by the authority. Nothing herein shall prohibit the authority from taking any appropriate and prudent action to renegotiate and restructure such debt or from purchasing the preferred stock and debt securities issued by such

corporation at such prices as the authority may determine. The authority may also exchange its bonds for any outstanding preferred stock or debt securities with the consent of the holders of such preferred stock or debt securities.

9. If the authority determines, in its sole discretion, that the total cost of acquisition will result in rates in excess of the rates which would result from continued operation by such downstate utility corporation, the authority shall abandon the acquisition. In such event, the authority shall serve notice of such abandonment (a) in the case of a stock acquisition, by causing to be mailed by certified or registered mail a copy of such notice to each former owner of stock as shown on such downstate utility corporation's stock transfer books immediately prior to such acquisition at the address shown on such stock transfer books and by causing to be published a copy of such notice in at least five successive issues of a daily newspaper of national circulation or (b) in the case of an asset acquisition, in the same manner as provided for the service of a petition for acquisition in paragraph (c) of subdivision six of this section. In addition, in the case of an asset acquisition the authority shall file a copy of the notice of abandonment with the county clerk of the county in which is located any real property that was taken and with the clerk of the supreme court in which the proceeding was instituted.

10. The provisions with respect to the valuation of stock and property set forth in this section shall apply only to stock or property of a downstate utility corporation, as the case may be, acquired by the authority by the exercise of the power of eminent domain.

§ 1022-f. Deposit and investment of moneys of the authority. 1. All moneys of the authority, from whatever source derived, except as otherwise authorized or provided in this title, shall upon receipt be deposited forthwith in a bank or banks designated by the trustees, to be selected in accordance with such standards as the trustees shall set forth in the by-laws or investment guidelines of the authority, which standards shall take into account the creditworthiness and capital position of the depositary bank or banks. The moneys in such accounts may be invested in obligations of the state or the United States, or guaranteed by either in accordance with practices that the trustees shall set forth in the by-laws or investment guidelines of the authority. The moneys in such accounts shall be withdrawn on the order of such person or persons as the directors shall authorize in the by-laws of the authority and shall be applied to the use of the authority as the trustees shall authorize in the by-laws of the authority. All deposits of such moneys shall be secured in accordance with section twenty-nine hundred twenty-five of this chapter. The state comptroller and his or her legally authorized representatives are authorized and empowered from time to time to examine the accounts and books of the authority, including its receipts, disbursements, contracts, leases, sinking funds, investments and any other records and papers relating to its financial standing; the authority shall not be required to pay a fee for any such examination.

2. The authority shall have power to contract with holders of any of its bonds or notes or other obligations, or any trustee therefor, as to the custody, collection, securing, investment and payment of any moneys of the authority and of any moneys held in trust or otherwise for the payment of bonds or notes or other obligations, and to carry out any such contract. Moneys held in trust or otherwise for the payment of bonds or notes or other obligations or in any way to secure bonds or notes or obligations and deposits of such moneys shall be secured in

full in direct obligations of the federal government the payment of which is guaranteed by the United States of America. Such investments shall be held on deposit only in banks having a minimum credit rating and a minimum accumulated capital, as the trustees shall specify in the by-laws or investment guidelines of the authority.

3. Subject to agreements with noteholders and bondholders or any trustee therefor, the authority shall prescribe a uniform system of accounts in accordance with generally accepted accounting principles.

4. The trustees shall adopt investment guidelines and standards to implement the foregoing provisions of this section, which guidelines and standards shall be reviewed annually by the trustees and shall be made available to state and municipal officials and to the public.

§ 1022-g. Conflicts of interest. Eligibility for appointment as a trustee, officer or employee of the authority shall be subject to the provisions of section twenty-eight hundred twenty-five of this chapter. In addition to the requirements of such section:

1. If any trustee, officer or employee of the authority shall have an interest, either direct or indirect, in any contract to which the authority is or is to be a party, such interest shall be disclosed to the authority in writing and shall be set forth in the minutes of the authority. The trustee, officer or employee having such interest shall not participate in any action by the authority with respect to such contract.

2. No trustee, officer or employee of the authority shall be deemed to have such an interest solely by reason of the ownership of two percent or less of the securities of a corporation which is or is to be a party to a contract with the authority, including without limitation the holding company of any banking institution in which the funds of the authority are, or are to be deposited, or which is or is to be acting as trustee or paying agent under any bond or note resolution, trust indenture or similar instrument to which the authority is a party.

3. Nothing in this section shall be deemed or construed to limit the right of any trustee, officer or employee of the authority to acquire an interest in the securities of the authority.

§ 1022-h. Sale of surplus power. Whenever any electric power which the authority may acquire creates a surplus over the amount of electric power required by the residents of the service area, the authority may sell such surplus in territory outside the service area to persons, or public or private corporations. In acquiring any facility or property which also serves any municipality or territory outside the service area, the authority, if it deems it advantageous and economical so to do, may, with the consent of the trustees, serve any such municipality or territory or sell electric power to persons, or public or private corporations in such territory or to such municipality.

§ 1022-i. Audit and annual reports. 1. The accounts of the authority shall be subject to the supervision of the comptroller and an annual audit shall be performed by an independent certified public accountant selected by the trustees and shall be made available to the municipalities served by the authority and to the public.

2. The authority shall submit a detailed annual report pursuant to and as specified in section twenty-eight hundred of this chapter, and a copy of such report shall be filed with the county executives of the counties within the service area, and with the mayors and supervisors of the municipalities within the service area and shall be made available to the municipalities served by the authority and to the public. Nothing in

this section shall be deemed to exempt the authority from any rule or regulation, including the public authorities law.

§ 1022-j. Bonds, notes and other obligations of the authority. 1. The authority shall have power and is hereby authorized from time to time to issue its bonds, notes or other obligations, in an aggregate amount not to exceed one hundred twenty-five million dollars, for the purpose of financing any capital project authorized by this title, including but not limited to, the acquisition of any real or personal property or facilities deemed necessary by the authority, development and professional expenses, and funding any capital or other reserve funds established in connection with the authority's operations or issuances, in such principal amount as the trustees shall determine necessary to perform its corporate duties and further its purposes as authorized in this title. The maximum maturity of any such bond shall not exceed thirty years from its date of issuance. The maximum maturity of any such note or other obligation shall not exceed five years from its date of issuance.

2. Except as may be otherwise expressly provided by the authority, the issuance of bonds, notes or other obligations, shall be general obligations of the authority payable out of any moneys or revenues of the authority, subject only to any agreements with the holders of particular bonds, notes or other obligations pledging any particular moneys or revenues.

3. The authority shall have power from time to time, whenever it deems refunding expedient, to refund any bonds, notes or other obligations by the issuance of new bonds, notes or other obligations, up to one hundred twenty-five million dollars in the aggregate, whether the bonds, notes or other obligations to be refunded have or have not matured, and may issue bonds, notes or other obligations partly to refund bonds, notes or other obligations then outstanding and partly for any other purpose described in this section. Refunding bonds, notes or other obligations may be exchanged for the bonds, notes or other obligations to be refunded, with such cash adjustments as may be agreed, or may be sold with the proceeds applied to the purchase or payment of the bonds to be refunded.

4. Bonds may be issued either in a series with multiple discrete maturity dates or as term bonds with a single maturity date. The bonds, notes or other obligations shall be authorized by resolution of the trustees and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, payable annually or semi-annually, be in such denominations, be in such form, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America at such place or places, and be subject to such terms of redemption, as such resolution or resolutions may provide. In the event that term bonds, notes or other obligations are issued, the resolution authorizing the same may make such provisions for the establishment and management of adequate sinking funds for the payment thereof, as the authority may deem necessary.

5. The bonds, notes or other obligations of the authority may be sold at public or private sale for such price or prices as the authority shall determine. For a private sale of its securities, the authority shall obtain the written approval of the terms of such sale from the comptroller if such sale is to a party other than the comptroller, or from the director of the budget where such sale is to the comptroller, in either case prior to closing the issuance transaction.

6. Any resolution authorizing any issuance of bonds, notes or other obligations may contain provisions, which shall be a part of the contract between the authority and the holders of the issued securities, as to:

(a) pledging all or any part of the revenues of the authority or its projects or any revenue producing contract or contracts made by the authority with any individual, partnership, limited liability company, corporation or association to secure the payment of the bonds, notes or other obligations, subject to such agreements with holders of securities of the authority;

(b) pledging, assigning or creating a lien on all or any part of assets of the authority, including mortgages and obligations security mortgages, to secure the payment of the bonds, subject to such agreements with holders of securities of the authority;

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

(d) establishment of special funds for deposit of moneys received from the proceeds of the issuance of securities as the trustees shall determine, consistent with the authorizing resolution and the provisions of this title;

(e) limitations on the purpose to which the proceeds of sale of any issuance of bonds, notes or other obligations then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the bonds, notes or other obligations;

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

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

(h) providing for the appointment and powers of a trustee for holders of securities, and the rights, powers and duties of such trustee as the directors may determine;

(i) limitations on the amount of moneys derived from a project to be expended for operating, administrative or other expenses of the authority;

(j) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default, provided, however, that such rights and remedies shall not be inconsistent with the laws of the state and any other provisions of this title; and provided, further, however, that nothing contained in this title shall be deemed to restrict the right of the state or of any municipality to amend, modify or otherwise alter statutes, local laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto; and there shall not be included in any resolution or contract or agreement with the holders of the bonds, notes or other obligations authorized by this title any provision which provides that a default shall occur as a result of the state or of a municipality exercising its right to amend, modify or otherwise alter laws, ordinances, resolutions or agreements imposing or relating to taxes or fees or appropriations relating thereto; and

(k) any other provisions not inconsistent with those enumerated in this subdivision and necessary to effect its issuances of bonds, notes

or other obligations and the rights of the holders of its securities, or otherwise in furtherance of its corporate purposes.

7. Notwithstanding any other provision of this title, any such resolution or resolutions shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that any contracts entered into by the authority for the sale or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on any obligations issued pursuant to such resolution as the same severally become due and payable, and to maintain any debt service coverage ratios and any reserves required by the terms of such resolution or resolutions. Provided however, that the total rates, fees, and charges shall not exceed the prevailing electric rate in the service area. The prevailing electric rate in the service area shall mean the average of the total rates, fees, and charges paid by former customers of the downstate utility corporation that served such customers. Compliance with the prevailing electric rates in the service area shall be left to the sole determination of the public service commission.

8. It is the intent of this title that any pledge of revenues or other moneys or of a revenue producing contract or contracts made by the authority shall be valid and binding from the time when the pledge is made; that the revenues or other moneys or proceeds of any contract or contracts so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act; and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

9. Neither the trustees of the authority nor any person executing the bonds, notes or other obligations shall be liable personally on the bonds, notes or other obligations or be subject to any personal liability or accountability by reason of the issuance thereof.

10. The authority shall have the power out of any funds available therefor to purchase bonds, notes or other obligations. The authority may hold, pledge, cancel or resell such bonds, notes or other obligations, subject to and in accordance with agreements with bondholders.

11. Any bonds, notes or other obligations issued by the authority 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 all other persons whatsoever who are authorized to invest in bonds, notes or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them; subject to the provisions of any other general or special law to the contrary.

12. 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 available, as to, or for the payment or repayment of interest or principal, or both, or any part thereof, on any bonds, notes or other obligations 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, notes or other obligations of the authority.

13. In addition to the powers conferred in this section upon the authority to secure its bonds, notes or other obligations, the authority shall have the power in connection with the issuance of bonds, notes or other obligations 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, and for the acquisition, alteration or disposition of its property, real and personal, 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 the 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, notes or other obligations of the authority.

14. All bonds, notes and other obligations issued by the authority under the provisions of this title are hereby declared to have all the qualities and incidents of negotiable instruments under the applicable laws of the state.

15. Nothing in this section shall be deemed to allow the authority to exceed its one hundred twenty-five million dollar aggregate debt limit.

§ 1022-k. State and municipalities not liable on bonds or notes or other obligations. The securities of the authority shall not be a debt of the state or of any municipality, and neither the state nor any municipality shall be liable thereon. The authority shall not have the power to pledge or restrict the credit, the revenues or the taxing power of the state or of any municipality, and neither the credit, the revenues nor the taxing power of the state or of any municipality shall be or shall be deemed to be pledged to the payment of any securities of the authority. Each evidence of indebtedness of the authority, including the securities of the authority, shall contain a clear and explicit statement of the provisions of this section. Nothing in this title shall be deemed to obligate the state or any municipality to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

§ 1022-l. Agreement of the state. The state does hereby pledge to and agree with the holders of any bonds, notes or other obligations issued by the authority under 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 securities, or in any way impair the rights and remedies of the bondholders until such securities are fully met and discharged. The authority is authorized to include this pledge of the state in all agreements by the authority with the holders of its securities. Nothing contained in this title shall be deemed to restrict any right of the state or municipality to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds, notes or other obligations issued under this article any provision which provides that a default

occurs as a result of the state or of a municipality exercising its right to amend, modify, or repeal or otherwise alter any statute imposing or relating to taxes, fees, or appropriations relating thereto.

§ 1022-m. Exemption of the authority from taxation. 1. It is hereby found and declared that the operation of the authority is primarily for the benefit of the people of the participating municipalities, counties and the state, for the improvement of their health, welfare and prosperity, and is a public purpose, and the authority shall be regarded as performing an essential governmental function in carrying out the provisions of this title.

2. The authority shall be required to pay no taxes nor assessments upon any of the property acquired or controlled by it or upon its activities in the operation and maintenance thereof or upon income derived therefrom, provided that nothing herein shall prevent the authority from entering into agreements to make payments in lieu of taxes.

3. The authority shall make payments in lieu of taxes to municipalities and school districts equal to the taxes and assessments which would have been received from year to year by such jurisdiction.

4. The authority shall also make payments in lieu of taxes for those taxes which would otherwise be imposed upon a utility corporation pursuant to: (a) section one hundred eighty-six-a and former section one hundred eighty-six of the tax law as such sections were in effect on December thirty-first, nineteen hundred ninety-nine; (b) any taxes imposed by a city within the authority's service area pursuant to the authorization granted by section twenty-b of the general city law; and (c) any taxes imposed by a village within the authority's service area pursuant to authorization granted by section 5-530 of the village law.

5. Notwithstanding the exemption in subdivision two of this section, the authority shall also be subject to the assessments imposed pursuant to section eighteen-a of the public service law.

6. The securities issued by the authority, and the income therefrom shall, at all times, be free from taxation, except for estate and gift taxes.

7. Nothing in this title shall relieve the authority from its obligations to register for sales tax purposes, collect state or local sales and compensating use taxes imposed by or pursuant to the authority of articles twenty-eight and twenty-nine of the tax law, and otherwise comply with those articles on its sale of property or services.

§ 1022-n. Actions against the authority. 1. Any action, suit or proceeding to which the authority may be a party in which any question arises as to the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain shall be preferred over all other civil causes in all courts of the state, except election matters, and shall be heard and determined in preference to all other civil business pending therein, except election matters, irrespective of position on the calendar. The same preference shall be granted upon application of counsel to the authority in any action or proceeding questioning the validity of this title or the valuation of stock or assets acquired by the authority by the exercise of the power of eminent domain in which such counsel may be allowed to intervene. The venue of any such action or proceeding shall be laid in the supreme court pursuant to article five of the civil practice law and rules.

2. In the event any party shall appeal an award of compensation for the taking by the authority of stock or assets, such party shall post a bond in such amount, if any, as the supreme court shall deem appropriate

to adequately protect the interests of the other party under all the circumstances.

3. An action against the authority founded on tort shall be commenced in compliance with all the requirements of section fifty-e of the general municipal law, except that an action against the authority for wrongful death shall be commenced in accordance with the provisions of title eleven of article nine of this chapter.

§ 1022-o. Equal employment opportunity. All contracts entered into by the authority pursuant to this title of whatever nature and all documents soliciting bids or proposals therefor shall contain or make reference to the following provision:

The contractor shall not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, and will undertake or continue existing programs of affirmative action to ensure that minority group persons and women are afforded equal opportunity without discrimination. Such programs shall include, but not be limited to, recruitment, employment, job assignment, promotion, upgrading, demotion, transfer, layoff, termination, rates of pay or other forms of compensation, and selection for training and retraining, including apprenticeship and on-the-job training.

§ 1022-p. Limitation of liability; indemnification. 1. The trustees, officers and employees of the authority, while acting within the scope of their authority as trustees, officers or employees, shall not be subject to any personal or civil liability resulting from the exercise, carrying out or advocacy of any of the authority's purposes or power unless the conduct of the trustees, officers or employees is finally determined by a court of competent jurisdiction to constitute intentional wrongdoing or recklessness.

2. The provisions of section eighteen of the public officers law shall apply to trustees, officers and employees of the authority in connection with any and all claims, demands, suits, actions or proceedings which may be made or brought against any of them arising out of any determinations made or actions taken or omitted to be taken in compliance with any actions taken pursuant to the powers of this title.

3. As used in this section, the terms "trustee", "officer" and "employee" shall include a former trustee, officer or employee and his or her estate or judicially appointed personal representative.

4. Nothing in this section shall limit the obligations of a "trustee", "officer", or "employee" of the authority or of a subsidiary of the authority as a "person required to collect tax", as such term is defined in article twenty-eight of the tax law, if such trustee, officer or employee is, or was, under a duty to act for the authority or subsidiary, or both, as the case may be, in complying with any requirement of article twenty-eight or related provision of article twenty-nine of the tax law.

§ 1022-q. Website. The authority shall make accessible to the public, via its official or shared internet website, documentation pertaining to its mission, current activities, most recent annual financial reports, current year budget and its most recent independent audit report unless such information is covered by subdivision two of section eighty-seven of the public officers law.

§ 1022-r. Prevailing wage. Whenever the authority enters into any contract, subcontract, lease, grant, bond, covenant or other agreement for or in connection with any construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improve-

ment project, such project shall be deemed to be a public works project for the purposes of article eight of the labor law, and all of the provisions of article eight of the labor law shall be applicable to all the work involved in the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of such project. Funds, financial assistance, or any other benefits provided pursuant to this article shall not be utilized for or in connection with the construction, demolition, reconstruction, excavation, rehabilitation, repair, renovation, alteration, or improvement of any project to which the provisions of article eight of the labor law are not applicable.

§ 1022-s. Periodic review by legislature. Beginning in the year two thousand twenty, and not more than every ten years thereafter, the legislature of the state of New York shall conduct a comprehensive review, of the structure, activities and operations of the authority, and the authority shall provide such records, reports and testimony as the legislature may request to assist in the conduct of this review.

§ 1022-t. Severability. The provisions of this title are severable, and if any clause, sentence, paragraph, section or part of this title, or the application thereof to any person or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unenforceable, such judgment shall not affect, impair or invalidate the remainder of this title or the application of such provision to any other person or circumstance, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof or person or circumstance directly involved in the controversy in which such judgment shall have been rendered.

§ 2. Subdivision 1 of section 51 of the public authorities law is amended by adding a new paragraph o to read as follows:

o. Downstate New York Power Authority

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.