

STATE OF NEW YORK

1204--A

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. LAVINE, MONTESANO, RA -- read once and referred to the Committee on Corporations, Authorities and Commissions -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to the assessment of property owned by water-works corporations; and to amend the public authorities law, in relation to creating the Nassau county water authority

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Long Island water utility reform act".

3 § 2. The taxable assessed valuation of any water system special fran-
4 chise property, as defined in subdivision 17 of section 102 of the real
5 property tax law, that is used for conducting water, including, but not
6 limited to, such replacement property in form, function and utility of
7 the property being replaced on assessment rolls required by law to be
8 completed, and filed on or after January 1, 2021 shall be exempt from
9 taxation as water system special franchise property as defined in subdivi-
10 sion 17 of section 102 of the real property tax law.

11 § 3. The provisions of this act shall only apply to water-works corpo-
12 rations that are subject to the jurisdiction of the New York public
13 service commission and operating in a county with a population of one
14 million or more and that have a four-class property tax system.

15 § 4. Article 5 of the public authorities law is amended by adding a
16 new title 4-A to read as follows:

Title 4-A

NASSAU COUNTY WATER AUTHORITY

19 Section 1092-a. Short title.

20 1092-b. Definitions.

21 1092-c. Nassau county water authority.

22 1092-d. Powers of the authority.

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

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- 1 1092-e. Miscellaneous requirements.
- 2 1092-f. Additional powers of the county of Nassau and towns and
- 3 villages within Nassau county.
- 4 1092-g. Acquisition by eminent domain.
- 5 1092-h. Charges by authority; method of collection.
- 6 1092-i. Survey of water resources.
- 7 1092-j. Bonds.
- 8 1092-k. Notes of the authority.
- 9 1092-l. Bonds as legal investments.
- 10 1092-m. Bonds and property of the authority exempt from taxa-
- 11 tion.
- 12 1092-n. State, county and municipalities not liable on bonds.
- 13 1092-o. Agreements of the state.
- 14 1092-p. Contracts for sale of water wholesale.
- 15 1092-q. Audit of authority; annual report.
- 16 1092-r. Interest in contracts prohibited.
- 17 1092-s. Contracts.
- 18 1092-t. Actions.
- 19 1092-u. Expenses of hearing.
- 20 1092-v. Severability.

21 § 1092-a. Short title. This title may be cited as the "Nassau county

22 water authority act".

23 § 1092-b. Definitions. As used or referred to in this title, unless a

24 different meaning clearly appears from the context:

25 1. The term "authority" shall mean the corporation created by section

26 ten hundred ninety-two-c of this title;

27 2. The term "municipality" shall mean any county, city, town, village,

28 town water district, fire district, fire protection district, fire alarm

29 district, school district, and any other political subdivision of the

30 state;

31 3. The term "bonds" shall mean the bonds issued by the authority

32 pursuant to this title.

33 § 1092-c. Nassau county water authority. 1. The corporate existence of

34 the Nassau county water authority shall be a body corporate and politic,

35 constituting a public benefit corporation. It shall consist of seven

36 members all of whom shall be residents of the county of Nassau and whom

37 shall be appointed as follows: four members, including the chairman or

38 chairwoman of such authority, to be appointed by the county executive;

39 two members to be appointed by the majority leader of the county legis-

40 lature; and one member to be appointed by the minority leader of the

41 county legislature. All initial appointments of members of such authori-

42 ty shall be made by December thirty-first, two thousand twenty-one. All

43 members shall continue to hold office until their successors are

44 appointed and qualify. Vacancies, occurring otherwise than by expira-

45 tion of term of office, shall be filled by appointments made for unex-

46 pired terms. Members of the authority may be removed from office for the

47 same reasons and in the same manner as may be provided by law for the

48 removal of officers of the county. The members of the authority shall

49 receive such compensation for their services as shall be fixed as speci-

50 fied by the county legislature and be reimbursed for all expenses

51 incurred in connection with the carrying out of the purposes of this

52 title. The powers of the authority shall be vested in and be exercised

53 by the members at a meeting duly called and held and five members shall

54 constitute a quorum. No action shall be taken except pursuant to the

55 favorable vote of at least four members. The authority may delegate to

56 one or more of its members, officers, agents or employees such powers

1 and duties as it may deem proper. The corporate existence of such
2 authority shall continue until its liabilities have been met and its
3 bonds have been paid in full. Upon ceasing to exist, all its rights and
4 property shall pass to the county of Nassau.

5 2. Neither the public service commission nor any other board or
6 commission of like character, shall have jurisdiction over the authority
7 in the management and control of its properties or operations or any
8 power over the regulation of rates fixed or charges collected by the
9 authority.

10 3. It is hereby determined and declared that the authority and the
11 carrying out of its powers, purposes and duties are in all respects for
12 the benefit of the people of the county of Nassau and the state of New
13 York, for the improvement of their health, welfare and prosperity and
14 that the said purposes are public purposes and that the authority is and
15 will be performing an essential governmental function in the exercise of
16 the powers conferred upon it by this title.

17 4. In the event that the authority does not commence supplying water
18 to retail or wholesale customers within the county of Nassau within ten
19 years of the effective date of this title, the authority shall cease to
20 exist and the provisions of this title shall be of no further force and
21 effect, subject to the terms of any bonds, notes or other debt obli-
22 gations then outstanding.

23 5. Until the authority commences supplying water to retail or whole-
24 sale customers within the county of Nassau, the authority may request
25 and shall receive such technical assistance from the department of
26 public service as will enable the authority to carry out its powers and
27 duties under this chapter.

28 § 1092-d. Powers of the authority. 1. Except as otherwise limited by
29 this title, the authority shall have the power to:

30 (a) sue and be sued;

31 (b) have a seal and alter the same at pleasure;

32 (c) in the name of the authority, acquire, lease, hold and dispose of
33 property or any interest therein for its corporate purposes, including
34 the power to purchase prospective or tentative awards in connection with
35 the exercise of the power of condemnation hereinafter granted;

36 (d) (i) purchase, in the name of the authority, any water supply
37 system, water distribution system, including plants, works, instrumen-
38 talities or parts thereof and appurtenances thereto, lands, easements,
39 rights in land and water rights, rights-of-way, contract rights, fran-
40 chises, approaches, connections, dams, reservoirs, water mains and pipe
41 lines, pumping stations and equipment, or any other property incidental
42 to and included in such system or part thereof, and any improvements,
43 extensions and betterments, situated wholly within the county for the
44 purpose of supplying water for domestic, commercial and public purposes
45 at retail to individual consumers within the county of Nassau or at
46 wholesale in the manner provided by paragraph (g) of this subdivision as
47 a means of so acquiring for such purposes, and subject to the approval
48 of the public service commission, the authority may purchase all of the
49 stock of any existing privately owned water corporation or company, and
50 thereafter, within a reasonable time, such water corporation or company
51 shall be dissolved;

52 (ii) condemn, in the name of the authority, except where located in
53 another county, any water supply system, water distribution system,
54 including plants, works, instrumentalities, or parts thereof and
55 appurtenances thereto, lands, easements, rights in land and water
56 rights, rights-of-way, contract rights, franchises, approaches,

1 connections, dams, reservoirs, water mains and pipe lines, pumping
2 stations and equipment, or any other property incidental to and included
3 in such system or part thereof, and any improvements, extensions and
4 betterments for the purpose of supplying water for domestic, commercial
5 and public purposes at retail to individual consumers within the county
6 of Nassau or at wholesale in the manner provided by paragraph (g) of
7 this subdivision. The authority shall exercise the power of condemna-
8 tion hereby granted in the manner provided by the condemnation law. In
9 the exercise of such power of condemnation, the property being condemned
10 shall be deemed, when so determined by the authority, to be for a public
11 use superior to the public use in the hands of any other person, associ-
12 ation, or corporation, provided, however, that the authority shall have
13 no power to condemn property the legal title to which is vested in a
14 municipality unless such municipality shall consent thereto;

15 (iii) construct, develop and operate any water supply system, water
16 distribution system, including plants, works, instrumentalities, or
17 parts thereof, and appurtenances thereto, dams, reservoirs, water mains,
18 pipe lines, pumping stations and equipment, or any other property inci-
19 dental to or included in such system or part thereof within the county
20 of Nassau, and to acquire, by condemnation in the manner provided by
21 this title, or by purchase, lands, easements, rights in land and water
22 rights and rights-of-way in connection therewith within such county; and
23 to own and operate, maintain, repair, improve, reconstruct, enlarge and
24 extend, subject to the provisions of this title, any of its properties
25 acquired or constructed under this title, all of which, together with
26 the acquisition of such properties are hereby declared to be public
27 purposes;

28 (iv) acquire, hold, use, lease, sell, transfer and dispose of any
29 property, real, personal or mixed, or interest therein, for its corpo-
30 rate purposes;

31 (e) purchase water in bulk from any person, private corporation or
32 municipality when necessary or convenient for the operation of such
33 water supply and distribution system. To sell water in bulk to any not-
34 for-profit corporation, public corporation, private corporation or
35 person at its regular retail rates;

36 (f) fix, alter, charge and collect rates and other charges for the use
37 of water by the inhabitants of the county or other consumers thereof, at
38 reasonable rates to be determined by the authority for the purpose of
39 providing for the payment of the expenses of the authority, the
40 construction, improvement, repair, maintenance and operation of the
41 water supply and distribution system of the authority, the payment of
42 the principal of and interest on the obligations of the authority, and
43 to fulfill the terms and provisions of any agreements made with the
44 purchasers or holders of any such obligations;

45 (g) sell water by volume to any or all municipalities or privately
46 owned public water supply and distribution systems in such county. The
47 fact that any municipality has procured or is about to procure an inde-
48 pendent source of water supply shall not prevent such municipality from
49 purchasing water from the authority;

50 (h) make contracts and execute all instruments necessary or conven-
51 ient;

52 (i) make by-laws for the management and regulation of its affairs and
53 the regulation of and the charges made for water sold;

54 (j) appoint officers, agents and employees;

55 (k) enter upon any lands, waters and premises for the purpose of
56 making surveys, soundings, drillings and examinations;

1 (l) enter into a contract or contracts with Nassau county for the
2 acquisition, construction and development of a water supply and distrib-
3 ution system, or any part or parts thereof, on behalf of a county water
4 district, and to contract for the operation and management of such coun-
5 ty water district, all as provided in article five-A of the county law
6 and article five-B of the general municipal law. Such water authority
7 shall be deemed the agent of Nassau county under any such contract. If
8 such contract shall authorize the water authority to purchase supplies
9 or equipment or to construct public works, such authority shall be
10 subject to all provisions of law to which Nassau county would be subject
11 in relation to advertising and awarding any such contracts for supplies,
12 equipment or public works; and

13 (m) do all things necessary or convenient to carry out the powers
14 expressly given or necessarily implied in this title.

15 2. (a) In exercising the powers granted by this title, the authority
16 shall not sell water in any area which is served by a water system owned
17 or operated by a municipality unless the governing board of such munici-
18 pality shall adopt a resolution requesting the authority to sell water
19 in such area. Notwithstanding any other provision of law, the authority
20 may not approve by resolution or otherwise make a final determination
21 regarding a construction project for any new structure which exceeds
22 thirty feet in height unless it holds a public hearing in the munici-
23 pality where the construction will take place not less than fifteen days
24 after notice has been given as hereinafter provided. Notice of such
25 public hearing shall be published once a week for two consecutive weeks
26 in a newspaper of general circulation in the area affected by the
27 proposed construction project, and for two consecutive weeks on the
28 website maintained by the authority.

29 (b) The board shall, when considering any purchase pursuant to subpar-
30 agraph (i) of paragraph (d) of subdivision one of this section, or any
31 condemnation pursuant to subparagraph (ii) of paragraph (d) of subdivi-
32 sion one of this section, of any assets owned by the New York American
33 Water Service Corporation as of January first, two thousand twenty, hold
34 a public hearing to solicit public comments no less than fifteen days
35 prior to the approval of such action by the board. Notice of such public
36 hearing shall be published once a week for two consecutive weeks in a
37 newspaper of general circulation in the area and for two consecutive
38 weeks on the website maintained by the authority.

39 § 1092-e. Miscellaneous requirements. The authority shall not refuse
40 to sell water service to residential tenants for the sole reason that
41 the premises of such tenants receiving water service are rented. No
42 discontinuance or disconnection of any supply of water shall be carried
43 out except in the manner and upon the notice as is required of a water-
44 works corporation pursuant to subdivisions three-a, three-b and three-c
45 of section eighty-nine-b and section one hundred sixteen of the public
46 service law. The authority shall meter service to its customers within
47 two years of the effective date of this title.

48 § 1092-f. Additional powers of the county of Nassau and towns and
49 villages within Nassau county. 1. (a) In addition to any powers granted
50 by any general or special law, the county legislature, acting on behalf
51 of the county, and any town board or village board of trustees of any
52 town or village within the county of Nassau, acting on behalf of such
53 town or village, either separately or pursuant to agreements among them-
54 selves, may, from time to time, appropriate by resolution sums of money
55 to defray costs and expenses of the authority associated with the exten-
56 sion of authority mains to areas in the county within which the county

1 department of health services has documented that private wells provid-
2 ing water to home owners have become contaminated with pollutants in
3 concentrations greater than recommended by any drinking water guidelines
4 or standard established by the federal government or this state, and may
5 enter into a contract or contracts with the authority to so extend
6 authority mains.

7 (b) In areas of documented groundwater contamination where potable
8 water may be more economically supplied by a municipal water authority,
9 special district or improvement area established to provide a water
10 improvement, or by a village, than by the authority, the county legisla-
11 ture and any town board or village board of trustees within Nassau coun-
12 ty may appropriate sums of money to said municipal water authority,
13 special district or improvement area or village, and enter into a
14 contract or contracts, in accordance with this subdivision.

15 2. Persons wishing to connect to mains that have been extended to
16 areas of documented groundwater contamination with financial assistance
17 by the county, or any town or village as provided herein, shall be sole-
18 ly responsible for costs and expenses associated with connecting to said
19 mains.

20 3. Appropriations of money by the county legislature and any town
21 board or village board of trustees in the county of Nassau to the
22 authority or to a municipal water authority, special district or
23 improvement area or village within Nassau county, and any contract or
24 contracts entered into with said authority or municipal water authority,
25 special district or improvement area or village prior to the effective
26 date of this section that are consistent with the authorization in
27 subdivision one of this section are hereby legalized, validated, rati-
28 fied and confirmed.

29 § 1092-g. Acquisition by eminent domain. Notwithstanding any provision
30 of the eminent domain procedure law to the contrary, in any proceeding
31 brought by the authority pursuant to such law, title shall vest in the
32 authority and compensation shall be paid only (i) upon a decision by the
33 supreme court that compensation for the real property so condemned shall
34 be determined solely by the income capitalization method of valuation,
35 based on the actual net income as allowed by the public service commis-
36 sion, and (ii) upon such court's determination of the amount of such
37 compensation, based upon the income capitalization method, entry of the
38 final judgment, the filing of the final decree, and the conclusion of
39 any appeal or expiration of the time to file an appeal related to the
40 condemnation proceeding. If any court shall utilize any method of
41 compensation other than the income capitalization method, or if the
42 proposed compensation is more than the rate base of the assets taken in
43 condemnation as utilized by the public service commission in setting
44 rates and as certified by the public service commission, the authority
45 may withdraw the condemnation proceeding without prejudice or costs to
46 any party.

47 § 1092-h. Charges by authority; method of collection. All rates, fees
48 and other charges for the use or availability of the facilities or
49 services or commodities provided or made available by the authority and
50 billed directly by the authority to the user or service recipient pursu-
51 ant to a classification of person adopted by the authority as herein
52 provided shall be a lien upon the real property upon which, or in
53 connection with which, services are provided or are made available, as
54 and from the first date fixed for a payment of such rates, fees and
55 other charges. Any such lien shall take precedence over all other liens,
56 or encumbrances, except taxes or assessments. The chief financial offi-

1 cer of the authority shall prepare and transmit to the receiver of
2 taxes, on or before the first day of November in each year, a list of
3 those properties using such facilities or for which such facilities,
4 services or commodities were provided or made available and from which
5 the payment of rates, fees and other charges are in arrears for a period
6 of ninety days or more after the last day fixed for payment of such
7 rates, fees and other charges without penalty. The list shall contain a
8 brief description of such properties, the names of the persons or corpo-
9 rations liable to pay for the same, and the amount chargeable to each,
10 including penalties and interest, as applicable, computed to December
11 thirty-first of that year. The county shall levy such sums against the
12 properties liable and shall state the amount thereof in a separate
13 column in the annual tax rolls of the county under the heading "water
14 charge". Such amounts, excluding penalties and interest imposed by the
15 county when collected by the receivers of taxes or county treasurer,
16 shall be paid over to the chief financial officer of the authority.
17 County imposed penalties and interest shall be retained by the county
18 treasurer or receiver of taxes which shall become a part of the general
19 funds of the county. All of the provisions of the real property tax law
20 of the state or the Nassau County Administrative Code, as applicable,
21 governing enforcement and collection of unpaid taxes or assessments for
22 special improvements not inconsistent herewith shall apply to the
23 collection of such unpaid rates, rentals, fees and other charges.

24 § 1092-i. Survey of water resources. The legislature of Nassau County
25 may, by resolution, appropriate a sum of money to defray the preliminary
26 expenses of such authority so created and may thereafter appropriate
27 such sums as may be required, for the purpose of making a survey of the
28 water resources of the said county, and the preparation of a map or plan
29 for the development thereof. The authority shall, as soon as possible,
30 make a survey of the water resources of the county, and prepare a map
31 and plan for the development of the same showing in detail the proposed
32 sources of water to be developed, and the municipalities and areas which
33 may be served thereby. Application for approval of the project shall
34 then be made to the department of environmental conservation as provided
35 by title fifteen of article fifteen of the environmental conservation
36 law. If so approved, the authority shall enter into such contracts or
37 agreements as may be necessary to carry out the plan of such develop-
38 ment. The authority may, however, acquire by purchase or condemnation
39 any existing water supply and distribution system without making such
40 survey and except after first obtaining the approval of the legislature
41 of the county; provided, however, that the authority shall not acquire
42 any existing water supply and distribution system owned by a munici-
43 pality unless the governing board thereof shall adopt a resolution
44 requesting the authority to make such acquisition.

45 § 1092-j. Bonds. 1. The authority shall have power and is hereby
46 authorized from time to time to issue its negotiable bonds in conformity
47 with applicable provisions of the uniform commercial code. Such bonds
48 shall be authorized by resolution of the authority and shall bear such
49 date or dates, mature at such time or times in not exceeding forty years
50 from their respective date or dates, subject to such option or options
51 of redemption, as may be provided in the resolution authorizing such
52 bonds, at par or at a price not exceeding one hundred five per centum of
53 their face value, together with accrued interest, bear interest at such
54 rate or rates that the cost to maturity of the money for any issue of
55 such bonds shall not exceed six per centum per annum, payable annually
56 or semi-annually, be in such denominations, and in such form, either

1 coupon or registered, and be executed in such manner, and be payable in
2 such medium of payment, at such place or places, and be subject to such
3 terms and conditions as such resolution or resolutions may provide.

4 2. All bonds of the authority shall be sold at public sale upon sealed
5 bids in an electronic format to the bidder who shall offer the lowest
6 interest cost to the authority to be determined by the authority. The
7 notice of sale shall be published at least once not less than ten nor
8 more than forty days before the date of sale in a newspaper designated
9 by the authority and shall call for the receipt of sealed bids and shall
10 fix the date, time and place of sale.

11 3. Notwithstanding the foregoing provisions requiring public sale, any
12 bonds of the authority may be sold by the authority upon the approval of
13 the comptroller at private sale at such price or prices as the authority
14 shall determine not exceeding the interest cost herein provided, and the
15 authority also may sell at private sale for such price or prices as the
16 authority shall determine not exceeding the interest cost herein
17 provided, any bonds authorized for the purpose of paying the cost of
18 acquiring by condemnation a privately owned public water supply and
19 distribution system, provided such bonds are sold within one year of the
20 date of completion of such condemnation and the proceedings for such
21 condemnation were commenced prior to or not more than two years from the
22 effective date of this title.

23 4. Any bonds of the authority, whether sold at public or private sale,
24 shall be sold for a price not less than ninety-six per centum of the par
25 value thereof, plus accrued interest provided always that the interest
26 cost to maturity of the money for any issue of such bonds shall not
27 exceed six per centum per annum. Such bonds may be issued for any corpo-
28 rate purpose of the authority.

29 5. Any resolution or resolutions authorizing any bonds may contain
30 provisions, which shall be a part of the contract with the holders of
31 the bonds, as to:

32 (a) pledging the revenue or water rents charged by the authority to
33 secure the payment of the bonds;

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

36 (c) limitations on the right of the authority to restrict and regulate
37 the use of water and to alter or reduce rates or charges for the use of
38 water;

39 (d) limitations on the issuance of additional bonds;

40 (e) the application of funds and the safeguarding of funds on hand or
41 on deposit, including the requiring of the giving of security for depos-
42 it of such funds by depository banks or trust companies. Unless other-
43 wise provided in said resolution, all deposits of funds of the authority
44 shall be secured in the manner provided by law for securing deposits of
45 county moneys. All banks and trust companies are authorized to give
46 such security for such deposits; and

47 (f) defining the acts or omissions to act which shall constitute a
48 default in the obligations and duties of the authority to the bondhold-
49 ers and providing the rights and remedies of the bondholders in the
50 event of such default, including as a matter of right the appointment of
51 a receiver; provided, however, that such rights and remedies shall be
52 not inconsistent with the general laws of this state.

53 6. The authority shall have power from time to time whenever it deems
54 refunding expedient, to refund any bonds by the issuance of new bonds,
55 whether the bonds to be refunded have or have not matured, and may issue
56 bonds partly to refund bonds then outstanding and partly for any of its

1 corporate purposes. Refunding bonds may be delivered by the authority to
2 the purchasers thereof at any time prior to the date of maturity or
3 redemption date of the bonds proposed to be refunded, if the authority
4 shall determine that such action shall be financially sound and advanta-
5 geous to the authority. The rate or rates of interest of the refunding
6 bonds shall not be limited by the rate or rates of interest borne by any
7 of the bonds to be refunded by such bonds, but all of the provisions of
8 this section with reference to the sale of bonds of the authority, and
9 the interest cost of the money raised by the sale thereof, shall apply
10 to such refunding bonds.

11 7. Except as may be otherwise expressly provided by the authority,
12 every issue of bonds by the authority shall be general obligations paya-
13 ble out of any moneys, earnings or revenues of the authority, subject
14 only to any agreements with the holders of particular bonds pledging any
15 particular moneys, earnings or revenues.

16 8. Neither the members of the authority nor any person executing the
17 bonds shall be personally liable on the bonds or be subject to any
18 personal liability or accountability by reason of the issuance thereof.
19 The authority shall have the power, out of any funds available therefor,
20 to purchase (as distinguished from the power of redemption hereinabove
21 provided) any bonds issued by it at a price of not more than the princi-
22 pal amount thereof or the redemption price at which the bonds may be
23 redeemed at the next ensuing redemption date and accrued interest. All
24 bonds so purchased shall be cancelled.

25 9. Any provision of the uniform commercial code to the contrary
26 notwithstanding, any pledge of or other security interest in revenues,
27 moneys, accounts, contract rights, general intangibles or other personal
28 property made or created by the authority shall be valid, binding and
29 perfected from the time when such pledge is made or other security
30 interest attaches without any physical delivery of the collateral or
31 further act, and the lien of any such pledge or other security interest
32 shall be valid, binding and perfected against all parties having claims
33 of any kind in tort, contract or otherwise against the authority irre-
34 spective of whether or not such parties have notice thereof. No instru-
35 ment by which such a pledge or security interest is created nor any
36 financing statement need be recorded or filed.

37 § 1092-k. Notes of the authority. The authority shall have the power
38 and is hereby authorized to issue negotiable bond anticipation notes or
39 revenue anticipation notes in conformity with applicable provisions of
40 the uniform commercial code and may renew the same from time to time but
41 the maximum maturity of any such note, including renewals thereof, shall
42 not exceed five years from the date of issue of such original note. Such
43 notes shall be paid from any moneys of the authority available therefor
44 and not otherwise pledged or from the proceeds of sale of the bonds of
45 the authority in anticipation of which they were issued, or, subject to
46 the contractual rights of the holders of any bonds or notes then
47 outstanding, from the proceeds of the sale of any other bonds of the
48 authority. The notes shall be issued in the same manner as the bonds and
49 the resolution or resolutions authorizing the same may contain any
50 provisions, conditions or limitations which the bonds or a bond resol-
51 ution of the authority may contain. Such notes may be sold at public or
52 private sale at not less than par and shall bear interest at a rate not
53 exceeding six percent per annum. The provisions of sections one thousand
54 ninety-two-l, one thousand ninety-two-m, one thousand ninety-two-n and
55 one thousand ninety-two-o of this article relating to bonds of the
56 Nassau county water authority shall apply with the same full force and

1 effect to bond anticipation notes and revenue anticipation notes of the
2 authority herein authorized to be issued.

3 § 1092-l. Bonds as legal investments. The bonds herein authorized are
4 hereby made securities in which all public officers and bodies of this
5 state and all municipalities and municipal subdivisions, all insurance
6 companies and associations and other persons carrying on an insurance
7 business, all banks, bankers, trust companies, savings banks and savings
8 associations, including savings and loan associations, building and loan
9 associations, investment companies and other persons carrying on a bank-
10 ing business, and all other persons whomsoever, except as hereinafter
11 provided, who are now or may hereafter be authorized to invest in bonds
12 or other obligations of the state, may properly and legally invest funds
13 including capital in their control or belonging to them, provided that,
14 notwithstanding the provisions of any other general or special law to
15 the contrary, such bonds shall not be eligible for the investment of
16 funds including capital, of trusts, estates or guardianships under the
17 control of individual administrators, guardians, executors, trustees and
18 other individual fiduciaries. The bonds are also hereby made securities
19 which may be deposited with and may be received by all public officers
20 and bodies of this state and all municipalities and municipal subdivi-
21 sions for any purpose for which the deposit of bonds or other obli-
22 gations of this state is now or may hereafter be authorized.

23 § 1092-m. Bonds and property of the authority exempt from taxation.
24 It is hereby determined that the creation of the authority and the
25 carrying out of its corporate purposes is in all respects for the bene-
26 fit of the people of the county, and is a public purpose, and the
27 authority shall be regarded as performing a governmental function in the
28 exercise of the powers conferred upon it by this title and shall not be
29 required to pay any taxes, special ad valorem levies or special assess-
30 ments upon any property owned by it or under its jurisdiction, control
31 or supervision or upon its activities, or any filing, recording or
32 transfer taxes in relation to instruments filed, recorded or transferred
33 by it or on its behalf. Any bonds or notes issued pursuant to this
34 title, together with the income therefrom shall be exempt from taxation,
35 except for transfer and estate taxes. The revenues, monies and other
36 properties and the activities of the authority shall be exempt from
37 taxes and governmental fees or charges, whether imposed by the state or
38 any municipality, including real estate taxes, franchise taxes or other
39 excise taxes. The state of New York covenants with the purchasers and
40 with all subsequent holders and transferees of bonds and notes issued by
41 the authority pursuant to this title, in consideration of the acceptance
42 of and payment for the bonds and notes, that the bonds and notes of the
43 authority issued pursuant to this title and the income therefrom, and
44 all moneys, funds and revenues pledged to pay or secure the payment of
45 such bonds and notes, shall at all times be free from taxation except
46 for transfer and estate taxes.

47 § 1092-n. State, county and municipalities not liable on bonds. The
48 bonds of the authority shall not be a debt of the state of New York or
49 of the county or of any municipality in the county, and neither the
50 state nor the county nor any municipality in the county shall be liable
51 thereon, nor shall they be payable out of any funds other than those of
52 the authority.

53 § 1092-o. Agreements of the state. The state of New York does pledge
54 to and agree with the holders of the bonds that the state will not limit
55 or alter the rights hereby vested in the authority to acquire,
56 construct, maintain, operate, reconstruct and improve the properties, to

1 establish and collect the revenues, rates, rentals, fees and other
2 charges referred to in this title and to fulfill the terms of any agree-
3 ments made with the holders of the bonds, or in any way impair the
4 rights and remedies of the bondholders, until the bonds, together with
5 interest thereon, interest on any unpaid installments of interest, and
6 all costs and expenses in connection with any action or proceeding by or
7 on behalf of the bondholders, are fully met and discharged.

8 § 1092-p. Contracts for sale of water wholesale. Any municipality is
9 hereby authorized to contract with the authority for the purchase of
10 water from the authority at wholesale for a period not exceeding thirty
11 years except that, in the case of a fire protection district or a fire
12 alarm district such period shall not exceed five years, and in the case
13 of a fire district, such period shall not exceed ten years. Such
14 contract shall provide that the liability of such purchaser for the
15 payment of any sums pursuant to such contract shall arise only at such
16 time as such water has been actually delivered to such purchaser. Such
17 contract shall state the rates, fees or charges to be paid for such
18 water, shall provide for the adjustment thereof either by increase or
19 decrease from time to time by mutual agreement of the parties thereto,
20 subject however to any provisions contained in any resolution of the
21 authority authorizing obligations relating to the imposition of rates,
22 fees or charges and the revision or adjustment thereof. Prior to the
23 execution of such contract the governing board of any such purchaser
24 shall call a public hearing to consider the subject matter and the
25 desirability of the execution of the proposed contract and shall publish
26 notice thereof in a newspaper of general circulation in the territorial
27 boundaries of such purchaser, at least once and not less than fifteen
28 days before the date of such public hearing. Such notice shall briefly
29 state the terms of the proposed contract, the date and place of the
30 public hearing and further state that at such time and place the govern-
31 ing board will hear all persons interested. If, after considering the
32 evidence adduced at such hearing, such governing body shall conclude
33 that the execution of such contract is in the public interest, it may
34 authorize the execution thereof by the adoption of a resolution to such
35 effect.

36 § 1092-q. Audit of authority; annual report. In conformity with the
37 provisions of section five of article ten of the constitution, the
38 accounts of the authority shall be subject to the supervision of the
39 state comptroller and such state comptroller and his legally authorized
40 representatives are hereby authorized and empowered from time to time to
41 examine the accounts and the books of the authority, including its
42 receipts, disbursements, contracts, leases, sinking funds, investments
43 and any other matters relating to its financial standing. The authority
44 shall annually submit to the governor and to the state legislature and
45 also to the legislature of Nassau county a detailed report pursuant to
46 the provisions of section twenty-eight hundred of this chapter.

47 § 1092-r. Interest in contracts prohibited. It shall be a misdemeanor
48 for any of the members of the authority, or any officer, agent, servant
49 or employee thereof, employed or appointed by them, to be in any way or
50 manner interested directly or indirectly in the furnishing of work,
51 materials, supplies or labor, or in any contract therefor which the
52 authority is empowered by this title to make.

53 § 1092-s. Contracts. All contracts, or orders, for work, material or
54 supplies performed or furnished in connection with construction shall be
55 awarded by the authority pursuant to resolution. Such contracts, or
56 orders, for work, material or supplies needed for any particular purpose

1 involving an expenditure of more than five thousand dollars shall be
2 awarded only after inviting sealed bids or proposals therefor. The
3 notice inviting sealed proposals shall be published at least once in a
4 newspaper or trade paper selected by the authority for such purpose,
5 such publication to be at least ten days before the date for the receipt
6 of bids. If the authority shall not deem it for the interest of the
7 authority to reject all bids, it shall award the contract to the lowest
8 bidder, unless the authority shall determine that it is for the public
9 interest that a bid other than the lowest bid should be accepted. In any
10 contract for work, material or supplies, there shall be inserted in the
11 discretion of the authority a provision that additional work may be done
12 or material or supplies furnished for the purpose of completing such
13 contract at an expense not exceeding fifteen per centum of the amount of
14 such contract if such additional work, material or supplies shall be
15 ordered by the authority. The bidder whose bid is accepted shall give
16 security for the faithful performance of the contract, and such other
17 security as the authority may require, and may be required to maintain
18 for such period as shall be stipulated any construction done under the
19 contract, all in the manner prescribed and required by the authority;
20 and the sufficiency of such security shall, in addition to the justi-
21 fication and acknowledgment, be approved by the authority. All bids or
22 proposals shall be publicly opened by the authority or its duly author-
23 ized agent. If the bidder whose bid has been accepted after advertising
24 shall neglect or refuse to accept the contract within five days after
25 written notice that the same has been awarded to him on his bid or
26 proposal, or, if he accepts but does not execute the contract and give
27 proper security, the authority shall have the right to declare such
28 bidder's deposit forfeited, and thereupon it shall be readvertised and
29 relet as above provided. In case any work shall be abandoned by any
30 contractor, the authority may, if the best interest of the authority be
31 thereby served, adopt on behalf of the authority any or all subcontracts
32 made by such contractor for such work and all such subcontractors shall
33 be bound by such adoption if made; and the authority shall, in the
34 manner provided herein, readvertise and relet the work specified in the
35 original contract exclusive of so much thereof as shall be provided for
36 in the subcontract or subcontracts so adopted. No bid shall be accepted
37 from or any contracts awarded to any person or corporation who is in
38 arrears to the authority, or the county of Nassau upon any debt or
39 contract, or is a defaulter as surety or otherwise upon any obligation
40 of the authority, or the county. Every contract involving an expendi-
41 ture of more than five thousand dollars when made and entered into as
42 herein provided for shall be executed in duplicate, one copy of which
43 shall be held by the authority and one copy of which shall be delivered
44 to the contractor. Upon the adoption of a resolution by a vote of two-
45 thirds of all the members of the authority stating that, for reasons of
46 efficiency or economy, there is need for standardization, purchase
47 contracts for a particular type or kind of equipment, material or
48 supplies of more than five thousand dollars may be awarded by the
49 authority to the lowest responsible bidder furnishing the required secu-
50 rity after advertisement for sealed bids therefor in the manner provided
51 in this section. Such resolution shall contain a full explanation of the
52 reasons for its adoption.

53 § 1092-t. Actions. In any case founded upon tort, a notice of claim
54 shall be required as a condition precedent to the commencement of an
55 action or special proceeding against the authority or any officer,
56 appointee or employee thereof, and the provisions of section fifty-e of

1 the general municipal law shall govern the giving of such notice.
2 Except in an action for wrongful death, an action against the authority
3 for damages for injuries to real or personal property, or for the
4 destruction thereof, or for personal injuries, alleged to have been
5 sustained, shall not be commenced more than one year and ninety days
6 after the cause of action therefor shall have accrued. An action against
7 the authority for wrongful death shall be commenced in accordance with
8 the notice of claim and time limitation provisions of title eleven of
9 article nine of this chapter.

10 § 1092-u. Expenses of hearing. The expenses of any hearing, determi-
11 nation or other action which the provisions of this title require of the
12 department of environmental conservation shall be paid by the applicant.
13 Bills for such expenses shall be certified by said department to the
14 applicant and paid by the applicant directly to the claimant within
15 thirty days of the date of such certification.

16 § 1092-v. Severability. If any section, clause or provision in this
17 title shall be held by a competent court to be unconstitutional or inef-
18 fective in whole or in part, to the extent that it is not unconstitu-
19 tional or ineffective it shall be valid and effective, and no other
20 section, clause or provision shall on account thereof be deemed invalid
21 or ineffective. Insofar as the provisions of this title are inconsistent
22 with the provisions of any other act, general or special, or of any
23 local law of any city, the provisions of this title shall be control-
24 ling. Nothing contained in this title shall be held to alter or abridge
25 the powers and duties of the department of health or of the department
26 of environmental conservation over water supply matters.

27 § 5. Any reduction in the taxable assessed value or removal of proper-
28 ty in any taxing jurisdiction resulting from section two of this act
29 shall not be reflected in any adjusted proportions or adjusted base
30 proportions established pursuant to article 18 of the real property tax
31 law or adjusted homestead and non-homestead base proportions established
32 pursuant to article 19 of the real property tax law.

33 § 6. Any tax relief realized by this act shall be used to reduce
34 current water rates and offset future water rate increases.

35 § 7. This act shall take effect immediately.