

STATE OF NEW YORK

6393

2021-2022 Regular Sessions

IN ASSEMBLY

March 17, 2021

Introduced by M. of A. GRIFFIN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to establishing the South Nassau water authority

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

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

3 TITLE 5-A

4 SOUTH NASSAU WATER AUTHORITY

5 Section 1114-a. Short title.

6 1114-b. Definitions.

7 1114-c. South Nassau water authority district.

8 1114-d. South Nassau water authority.

9 1114-e. Powers of the authority.

10 1114-f. Transfer of officers and employees.

11 1114-g. Bonds of the authority.

12 1114-h. Remedies of bondholders.

13 1114-i. State and municipalities not liable on authority bonds.

14 1114-j. Moneys of the authority.

15 1114-k. Bonds; legal investments for fiduciaries.

16 1114-l. Agreement with the state.

17 1114-m. Exemption from taxes, assessments and certain fees;
18 payments in lieu of taxes.

19 1114-n. Actions against the authority.

20 1114-o. Conflicts of interest of members of the board of direc-
21 tors and officers and employees of the authority.

22 1114-p. Construction and purchase contracts.

23 1114-q. Separability clause.

24 1114-r. Effect of inconsistent provisions.

25 1114-s. Acquisition by eminent domain.

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

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1 § 1114-a. Short title. This title shall be known and may be cited as
2 the "South Nassau water authority act".

3 § 1114-b. Definitions. As used or referred to in this title, unless a
4 different meaning clearly appears from the context:

5 1. "Authority" shall mean the corporation created by section eleven
6 hundred fourteen-d of this title.

7 2. "Board of directors" shall mean the governing board of the authori-
8 ty.

9 3. "Bonds" shall mean the bonds, notes or other evidences of indebt-
10 edness issued by the authority pursuant to this title.

11 4. "Calendar year" shall mean the twelve month period from January
12 first through December thirty-first.

13 5. "Chief executive officer" when referring to a municipality shall
14 mean the chief elected official of such municipality and, when referring
15 to the authority, shall mean the chairperson of the authority.

16 6. "Civil service commission" shall mean the civil service commission
17 of the county of Nassau.

18 7. "Comptroller" shall mean the comptroller of the state of New York.

19 8. "Construction" shall mean the negotiation, acquisition, erection,
20 building, alteration, improvement, testing, increase, enlargement,
21 extension, reconstruction, interconnection, renovation or rehabilitation
22 of a water facility as defined in this section; the inspection and
23 supervision thereof; and the engineering, architectural, legal,
24 appraisal, fiscal, economic and environmental investigations, services
25 and studies, surveys, designs, plans, working drawings, specifications,
26 procedures and other actions incidental thereto.

27 9. "Costs", as applied to any project, shall include the cost of
28 construction, the cost of the acquisition of all property, including
29 both real, personal and mixed, the cost of demolishing, removing or
30 relocating any buildings or structures on lands so acquired including
31 the cost of acquiring any land to which such buildings or structures may
32 be moved or relocated, the cost of all systems, facilities, machinery,
33 apparatus and equipment, financing charges and bond discount, interest
34 to the extent not paid or provided for from revenues or other sources,
35 the cost of engineering and architectural surveys, plans and specifica-
36 tions, bond insurance, bond credit enhancement arrangements, other
37 expenses necessary or incidental to the construction of such project and
38 the financing of the construction thereof, including the cost of legal
39 and financial advices and credit arrangements with banks or other finan-
40 cial institutions, the amount authorized in the resolution of the
41 authority providing for the issuance of bonds to be paid into any
42 reserve or special fund from the proceeds of such bonds and the financ-
43 ing of the placing of any project in operation, including the reimburse-
44 ment to any municipality, state agency, the state, the United States
45 government, or any other person for expenditures made by them that would
46 be costs of the project hereunder, notwithstanding the fact that such
47 expenditures may have been incurred prior to the effective date of this
48 title.

49 10. "County" shall mean the county of Nassau.

50 11. "Distribution system" shall mean the water facility or facilities
51 employed to deliver water from a transmission facility, or where there
52 is no transmission facility, from a supply facility, to the ultimate
53 consumers of water.

54 12. "District" shall mean the water authority of South Nassau water
55 district created by section eleven hundred fourteen-c of this title.

56 13. "Governing body" shall mean:

1 (a) in the case of a city, county, town or village or district corpo-
2 ration, the finance board as such term is defined in the local finance
3 law; or

4 (b) in the case of a public benefit corporation, the members thereof.

5 14. "Members" shall mean the members of the board of directors.

6 15. "Municipality" shall mean any city, county, town, village or coun-
7 ty or town acting on behalf of an improvement district.

8 16. "Real property" shall mean lands, structures, franchises and inter-
9 ests in land, waters, lands under water, groundwater riparian rights and
10 air rights and any and all things and rights customarily included within
11 the term "real property" and includes not only fee simple absolute, but
12 also any and all lesser interests including, but not limited to, ease-
13 ments, rights of way, uses, leases, licenses and all other incorporeal
14 hereditaments and every estate, interest or right, legal or equitable,
15 including terms for years and liens thereon by way of judgments, mort-
16 gages or otherwise.

17 17. "State sanitary code" shall mean regulations adopted pursuant to
18 section two hundred twenty-five of the public health law.

19 18. "State" shall mean the state of New York.

20 19. "State agency" shall mean any state office, public benefit corpo-
21 ration, department, board, commission, bureau or division, or other
22 agency or instrumentality of the state.

23 20. "Supply facility" shall mean a water facility employed to make
24 groundwater or surface water available for delivery into a transmission
25 facility or distribution system.

26 21. "System revenues" shall mean all rates, rents, fees, charges,
27 payments and other income and receipts derived from users of the author-
28 ity without limiting the generality of the foregoing, investment
29 proceeds and proceeds of insurance, condemnation, sales or other dispo-
30 sitions of assets, together with all federal, state or municipal aid as
31 well as any other income derived from the operation of the water facili-
32 ty of the authority.

33 22. "Transmission facility" shall mean a water facility used to carry
34 water from a supply facility to a distribution system.

35 23. "Treasurer" shall mean the treasurer of the authority.

36 24. "Water facility" or "water facilities" shall mean any plants,
37 structures and other real and personal property acquired, rehabilitated
38 or constructed for the purpose of supplying, transmitting, distributing
39 or treating water, including but not limited to surface or groundwater
40 reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipe-
41 lines, mains, pumping stations, water distribution systems, compensating
42 reservoirs, intake stations, waterworks or sources of water supply,
43 wells, purification or filtration plants or other treatment plants and
44 works, connections, water meters, rights of flowage or diversion and
45 other plants, structures, equipment, towers, conveyances, real or
46 personal property or rights therein and appurtenances thereto necessary
47 or useful and convenient for the accumulation, supply, transmission,
48 treatment or distribution of water.

49 25. "Water project" shall mean any water facility, including the plan-
50 ning, development, financing or construction thereof.

51 26. "Watershed rules" shall mean the rules and regulations made by the
52 department of health pursuant to section eleven hundred of the public
53 health law.

54 § 1114-c. South Nassau water authority district. 1. There is hereby
55 created a district to be known as the "South Nassau water authority
56 district" which shall be defined as all that portion of Nassau county

1 being serviced by the New York American water service corporation as its
2 Long Island Water operations district as of the effective date of this
3 title, and lying south of the area serviced by the Town of Hempstead
4 Department of Water.

5 § 1114-d. South Nassau water authority. 1. A corporation known as
6 "South Nassau water authority" is hereby created for the purposes and
7 charged with the duties and having the powers provided in this title.
8 The authority shall be a corporate governmental agency constituting a
9 public benefit corporation and shall be a "public district" for the
10 purposes of section eighty-nine of the public service law. The authority
11 shall be governed by a board of directors consisting of five members.
12 The governing board of the town of Hempstead shall appoint three
13 members, and the Nassau county legislature shall appoint two members who
14 are residents serviced by the water authority of South Nassau. Each
15 member shall serve for a period of two years. Each chief executive offi-
16 cer shall file with the secretary of state a certificate of appointment
17 or reappointment of any member appointed or reappointed by such chief
18 executive officer within thirty days of the appointment or reappoint-
19 ment. Members shall receive no compensation for their services but shall
20 be entitled to reimbursement of their necessary expenses, including
21 traveling expenses, incurred in the discharge of their duties. Nothing
22 in this section shall be construed as preventing a chief executive offi-
23 cer of a municipality from appointing himself or herself to be a member
24 of the board of directors.

25 2. If the authority decides to enter into a contract to purchase or
26 otherwise acquire an interest in the New York American water service
27 corporation or to initiate a condemnation proceeding pursuant to the
28 eminent domain procedure law for the area it services within the South
29 Nassau water authority district, prior to entering into any contract to
30 purchase or otherwise acquire an interest in the New York American water
31 service corporation or the initiation of any condemnation proceeding by
32 the authority pursuant to the eminent domain procedure law for the area
33 it services within the South Nassau water authority district, the
34 authority shall provide ratepayers within the area serviced by the New
35 York American water service corporation and the public with public
36 forums for the expression and discussion of views regarding such
37 purchase, acquisition or condemnation of the New York American water
38 service corporation. The authority shall hold at least one forum in the
39 town of Hempstead.

40 3. If the authority decides to enter into a contract to purchase or
41 otherwise acquire an interest in the New York American water service
42 corporation or to initiate a condemnation proceeding pursuant to the
43 eminent domain procedure law for the area it services within the South
44 Nassau water authority district, the authority is authorized to provide
45 registered voters within the area serviced by the New York American
46 water service corporation within the South Nassau water authority
47 district prior to entering into such contract to purchase or otherwise
48 acquire an interest in the New York American water service corporation
49 or the initiation of any condemnation proceeding by the authority pursu-
50 ant to the eminent domain procedure law for the area the New York Ameri-
51 can water service corporation services within the South Nassau water
52 authority district, with a nonbinding referendum, regarding whether the
53 authority should enter into a contract to purchase or otherwise acquire
54 an interest in the New York American water service corporation or initi-
55 ate condemnation proceedings pursuant to the eminent domain procedure
56 law for the area it services within the South Nassau water authority

1 district. The proposition shall be placed on the ballot and voted upon
2 at a special election on a date to be determined by the Nassau county
3 board of elections.

4 4. Any one or more of the members of the board of directors may be an
5 official or an employee of a municipality situated within the district.
6 In the event that an official or an employee of such municipality shall
7 be elected as a member of the board of directors, acceptance or
8 retention of such appointment shall not be deemed a forfeiture of his or
9 her municipal office or employment, or incompatible therewith or affect
10 his or her tenure or compensation in any way.

11 5. No action shall be taken by the authority except pursuant to the
12 favorable vote of a simple majority of the board of directors.

13 6. The powers of the authority shall be vested in and shall be exer-
14 cised by the board of directors at a meeting duly called and held.
15 Three members of the board of directors, who together are authorized to
16 cast a majority of the vote, shall constitute a quorum. The board of
17 directors may delegate to one or more of its members, or to one or more
18 of the officers, agents or employees of the authority, such powers and
19 duties as it may deem proper.

20 7. The officers of the authority shall consist of a chairperson, vice
21 chairperson, deputy chairperson, treasurer, and secretary, who shall not
22 be members of the board of directors. The officers of the authority
23 shall be appointed by the board of directors. The board of directors may
24 appoint and at its pleasure remove an attorney and an engineer, which
25 positions, in addition to the officers above named, shall be in the
26 exempt class of the civil service and such additional officers and
27 employees as it may require for the performance of its duties, fix and
28 determine their qualifications, duties, compensations and terms of
29 office or tenure, subject to the provisions of the civil service law of
30 the state and such rules as the civil service commission may adopt and
31 make applicable to the authority. The authority may also from time to
32 time contract for expert professional services. The duties of the offi-
33 cers shall be as follows:

34 (a) Chairperson. The chairperson shall be the chief executive officer
35 of the authority and it shall be the responsibility of the chairperson
36 to:

37 (i) preside at all meetings of the board of directors and of the offi-
38 cers;

39 (ii) manage the water facility, the transmission facility and the
40 distribution system and to effectuate the decisions of the board of
41 directors;

42 (iii) exercise supervision over the conduct of the officers and
43 employees of the authority;

44 (iv) report annually to each customer, either by mail or by publica-
45 tion once in a newspaper having general circulation within the district;
46 such report shall include but not be limited to the following informa-
47 tion:

48 (1) a brief financial account on operations of the water system
49 including, but not limited to, water rates, total revenues, operating
50 and maintenance expenses, and interest on bonds and notes;

51 (2) the population served by the authority;

52 (3) the number of wells, towers and other storage facilities operated
53 by the authority;

54 (4) the total pumpage of groundwater including the amount received
55 through interdistrict interconnections and the estimated amount lost
56 from the system;

(5) the single highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which exceeds the applicable county water quality standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found, and the date on which each reported constituent was analyzed;

(6) the highest level from each well of each synthetic organic chemical, nitrate and chloride constituent tested for by the authority at any time during the year which does not exceed the applicable county water standard or guideline, but which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, the site of each well at which each reported constituent was found and the date on which each reported constituent was analyzed;

(7) once every five years, the highest level of any constituent discovered within the distribution system which contains a level equal to or greater than two-thirds of the amount permitted before exceeding a standard or guideline, that standard or guideline, and the resulting action taken by the authority;

(8) any well restricted, removed from service or otherwise limited in its use and the cause for such action;

(9) any actions taken to secure new supplies or replace lost capacity;

(10) the types of treatment which the water receives before entering the distribution system;

(11) any compliance activities required by regulations of the department of environmental conservation or the department of health or any local health department and any instances of noncompliance;

(12) the present condition of the distribution system and any significant actions, as determined by the authority, to improve or maintain the system;

(13) any special public services the authority provides during the year; and

(14) information on water conservation measures customers can implement, such as, but not limited to, retrofitting plumbing fixtures, altering irrigation timing, using irrigation sensors, leak detection, proper use of water-consuming appliances, daily conscientious use of water and estimated savings of water, energy, and money, from use of these measures;

(v) execute all contracts in the name of the authority;

(vi) institute, at the direction of the board of directors, all civil actions in the name of the authority;

(vii) provide for the enforcement of all of the rules and regulations of the authority and cause all violations thereof to be prosecuted;

(viii) sign orders to pay claims when authorized by the board of directors;

(ix) sign checks in the absence or inability of the treasurer or deputy treasurer, if any, when authorized by the board of directors; and a certified copy of a resolution of the board of directors to that effect shall be notice to the depository of such authorization;

(x) appoint, subject to the approval of the board of directors, non-elected officers, counsel, accountants, and other financial advisors, engineers and other technical advisors;

(xi) employ, promote and discharge managers, supervisors and employees; and

(xii) take all other reasonable and necessary actions to carry out his or her office as the chief executive of the authority. If the chair-

1 person has not been appointed as a member of the board of directors of
2 the authority pursuant to this section, such chairperson shall be deemed
3 an ex officio member of the board of directors. Such status shall not
4 carry with it the right to vote on matters coming before the board of
5 directors nor shall the presence of such chairperson be counted for the
6 purpose of determining a quorum.

7 (b) Vice chairperson. The vice chairperson shall perform all duties
8 delegated to him or her by the chairperson and, in the absence or during
9 the disability of the chairperson, the vice chairperson shall act as
10 chairperson.

11 (c) Deputy chairperson. The deputy chairperson shall perform all
12 duties delegated to him or her by the chairperson or the vice chair-
13 person.

14 (d) Secretary. (i) The secretary shall be the recording and corre-
15 sponding officer of the authority and the custodian of the records of
16 the authority.

17 (ii) The secretary shall prepare and send required notices of all
18 meetings when directed to do so by the chairperson or by the written
19 request of four members who have specified the issues to be discussed at
20 the meeting.

21 (iii) In the absence or disability of the secretary, the chairperson
22 may appoint a temporary secretary.

23 (e) Treasurer. (i) The treasurer shall have custody of all moneys
24 belonging to the authority and keep accounts of all receipts and expend-
25 itures in conformance with a uniform system of accounts formulated and
26 prescribed by the comptroller pursuant to section thirty-six of the
27 general municipal law.

28 (ii) The treasurer shall execute a bond, conditioned upon the faithful
29 performance of the duties of his or her office, the amount and suffi-
30 ciency of which shall be approved by the board of directors and the
31 premium therefor shall be paid by the authority.

32 (iii) The treasurer shall deposit, within ten days after receipt ther-
33 eof, in the name of the authority, in one or more banks, and/or trust
34 companies, designated by the board of directors, all moneys received by
35 him or her.

36 (iv) The treasurer may sign checks with the facsimile signature of the
37 treasurer, as reproduced by a machine or device commonly known as a
38 checksigner, when authorized by the board of directors.

39 (v) The treasurer shall pay out moneys from the authority treasury
40 only as authorized by the board of directors and by law. All such
41 payments, except as may be authorized by the board of directors for a
42 petty cash account, shall be by check.

43 (vi) The treasurer shall issue a report on the finances of the author-
44 ity at each regular meeting of the board of directors.

45 (vii) The treasurer shall file in the office of the authority, within
46 sixty days after the end of the fiscal year, a statement showing in
47 detail all revenues and expenditures during the previous fiscal year and
48 the outstanding indebtedness of the authority as of the end of the
49 fiscal year. The members shall, within ten days, cause to be published
50 once in a newspaper having general circulation within the district, a
51 notice that the annual financial statement has been filed and is avail-
52 able for inspection or a summary of such statement in a form approved by
53 the comptroller, with an endorsement thereon that details thereof are on
54 file in the office of the authority. The members shall cause to be
55 audited by a certified public accountant engaged for that purpose, such
56 report and supporting records.

8. The terms of the chairperson, vice chairperson and deputy chairperson first appointed shall be staggered, the chairperson first appointed shall serve for a period of four years, the vice chairperson first appointed shall serve for a period of three years and the deputy chairperson first appointed shall serve for a period of two years; thereafter their successors shall serve for terms of four years. The remaining officers shall each serve terms of one year. The board of directors shall have the right, at any time, to extend any such term, for a period of months, to provide that such term terminates contemporaneously with the end of the fiscal year of the authority.

9. The officers of the authority shall receive such compensation for their services as shall be fixed by the board of directors and shall be reimbursed for all necessary and actual expenses incurred in connection with their duties as such officers and in connection with the carrying out of the purposes of this title.

10. 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 bonds or other obligations outstanding unless adequate provision has been made for the payment or satisfaction thereof. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the municipalities within the district. Such property shall be apportioned and distributed among the municipalities within the district in direct proportion to their voting on the date of the termination of the authority.

11. In addition to any powers granted to it by law, the governing body of each of the municipalities within the district, from time to time, may appropriate sums of money to defray project costs or any other costs and expenses of the authority. Subject to the rights of bondholders, each governing body may determine if the moneys so appropriated shall be subject to repayment by the authority to the municipalities, and in such event, the manner and time or times for such repayment.

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

13. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the municipalities within the district and state, for the improvement of their health, welfare and prosperity and that the said purposes are public purposes and that the authority is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1114-e. Powers of the authority. Except as otherwise limited by this title, the authority shall have the power to:

1. sue and be sued;

2. have a seal and alter the same at pleasure;

3. borrow money and issue negotiable or non-negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. enter into contracts and execute all instruments necessary or convenient or desirable for the purposes of the authority to carry out any powers expressly given to it in this title;

5. acquire, by purchase, gift, grant, transfer, contract or lease or by condemnation pursuant to the eminent domain procedure law, lease as

1 lessee, hold and use and to sell, lease as lessor, transfer or otherwise
2 dispose of, any real or personal property or any interest therein, with-
3 in or without the district, but within the territorial limits of the
4 town of Hempstead, as the authority may deem necessary, convenient or
5 desirable to carry out the purpose of this title; provided, however,
6 that the authority may not condemn real property of a municipality with-
7 out the consent of the governing body of such municipality;

8 6. purchase, in the name of the authority, any water supply system,
9 including plants, works, instrumentalities or parts thereof and appurte-
10 nances thereto, lands, easements, rights in land and water rights,
11 rights-of-way, contract rights, franchises, permits, approaches,
12 connections, dams, wells, pumps, reservoirs, water mains and pipe lines,
13 pumping stations, treatment facilities, meters, equipment and inventory,
14 or any other property incidental to and included in such system or part
15 thereof, and any improvements, extensions and betterments, situated
16 wholly within the district, provided, however, that the authority shall
17 have the power to purchase any source of supply, or water supply system
18 or any part thereof situated wholly or partly without the territorial
19 limits of the district, provided same shall be necessary in order to
20 supply water within the district and in connection with the purchase of
21 such properties the authority may assume any obligations of the owner of
22 such properties and, to the extent required by the terms of any inden-
23 tures or other instruments under which such obligations were issued, the
24 authority may assume and agree to perform covenants and observe the
25 restrictions contained in such instruments; and furthermore the owner of
26 any properties, which the authority is authorized to acquire, is hereby
27 authorized to sell or otherwise transfer the same to the authority,
28 whereupon the authority shall become charged with the performance of all
29 public duties with respect to such properties with which such owner was
30 charged and such owner shall become discharged from the performance
31 thereof, as a means of so acquiring for such purpose, the authority may
32 purchase all of the stock of any existing privately owned water corpo-
33 ration or company and in the case of a sale or other transfer of proper-
34 ties of a public utility corporation pursuant to this provision, upon
35 the purchase of the stock of such corporation or company it shall be
36 lawful to dissolve such corporation within a reasonable time;

37 7. construct, improve or rehabilitate water supply facilities required
38 for the maintenance, development or expansion of water supply sources;

39 8. operate and manage and to contract for the operation and management
40 of facilities of the authority;

41 9. enter into contracts, and carry out the terms thereof, for the
42 wholesale provision of water produced by supply facilities constructed
43 and operated by the authority, to municipalities and private water
44 companies and to carry out the terms thereof, for the transmission of
45 water from new or existing supply facilities;

46 10. apply to the appropriate agencies and officials of the federal,
47 state and local governments for such licenses, permits or approvals of
48 its plans or projects as it may deem necessary or advisable, and upon
49 such terms and conditions as it may deem appropriate, to accept, in its
50 discretion, such licenses, permits or approvals as may be tendered to it
51 by such agencies and officials;

52 11. take all necessary and reasonable actions within the district to
53 conserve, preserve and protect the water supply to the district, includ-
54 ing the making of plans and studies, the adoption of watershed rules and
55 regulations, the enforcing of compliance with all current and future
56 rules and regulations of the state sanitary code with regard to water

1 supply and usage, the requiring of cross-connection controls, the
2 providing of educational material and programs to the public, and the
3 cooperating with water suppliers outside the district to conserve,
4 preserve and protect the entire water reserve as it is affected within
5 and outside the authority's supply area;

6 12. retain or employ counsel, auditors, engineers and private consult-
7 ants on a contract basis or otherwise for rendering professional or
8 technical services and advice;

9 13. make plans and studies necessary, convenient or desirable for the
10 effectuation of the purposes and powers of the authority and to prepare
11 recommendations in regard thereto;

12 14. prepare a water supply emergency plan which shall include, but not
13 be limited to, the following:

14 (a) establishment of criteria and procedures to determine critical
15 water levels or safe yield of system;

16 (b) identification of existing and future sources of water under
17 normal conditions and emergency conditions;

18 (c) system capacity and ability to meet peak demand and fire flows
19 concurrently;

20 (d) storage capacities;

21 (e) current condition of present interconnections and identification
22 of additional interconnections to meet a water supply emergency;

23 (f) a specific action plan to be followed during a water supply emer-
24 gency including a phased implementation of the plan;

25 (g) general water conservation programs and water use reduction strat-
26 egies for water supply users;

27 (h) prioritization of water users;

28 (i) identification and availability of emergency equipment needed
29 during a water supply emergency; and

30 (j) a public notification program coordinated with the phased imple-
31 mentation schedule; such plan shall not be adopted until a public hear-
32 ing on such plan shall have been held, upon not less than fourteen days'
33 notice thereof to each customer, either by mail or by publication once
34 in a newspaper having general circulation within the district; every
35 five years, such plan shall be reviewed and revised if necessary after a
36 public hearing, with notice to each customer as aforesaid;

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

41 16. apply for and to accept any gifts or grants or loans of funds or
42 property or financial or other aid in any form from the federal govern-
43 ment or any agency or instrumentality thereof, or from the state or any
44 agency or instrumentality thereof, or from any other source, for any or
45 all of the purposes specified in this title, and to comply, subject to
46 the provisions of this title, with the terms and conditions thereof;

47 17. obtain, store, treat, distribute, supply and sell water for domes-
48 tic, commercial and public purposes at retail to individual consumers
49 within the district;

50 18. purchase water from any municipal corporation, town water
51 district, person, association or corporation;

52 19. produce, develop, distribute and sell water or water services
53 within or without the territorial limits of the district; provided,
54 however, that water may be sold at retail to individual consumers only
55 within the district and further provided that in exercising the powers
56 granted by this title, the authority shall not sell water in any area

1 which is served by a water system owned or operated by a municipality or
2 special improvement district unless the governing body of such municipi-
3 pality or district shall adopt a resolution requesting the authority to
4 sell water in such served areas;

5 20. make bylaws for the management and regulation of its affairs and
6 rules and regulations for the conservation, preservation and protection
7 of the authority's water supply and, subject to agreements with bond-
8 holders, rules for the sale of water and the collection of rents and
9 charges therefor. A copy of such rules, regulations and bylaws and any
10 rules and regulations adopted pursuant to subdivision eleven of this
11 section, and all amendments thereto, duly certified by the secretary of
12 the authority shall be filed in the office of the municipalities within
13 the district and thereafter published once in a newspaper having general
14 circulation within the district. Violations of such rules and regu-
15 lations shall be punishable by fine, not exceeding fifty dollars, or by
16 imprisonment for not longer than thirty days, or both;

17 21. fix rates and collect charges for the use of the facilities of, or
18 services rendered by, or any commodities furnished by the authority such
19 as to provide revenues sufficient at all times to pay, as the same shall
20 become due, the principal and interest on the bonds, or other obli-
21 gations of the authority together with the maintenance of proper
22 reserves therefor, in addition to paying as the same shall become due,
23 the expense of operating and maintaining the properties of the authority
24 together with proper maintenance reserves, capital reserves, repair
25 reserves, tax stabilization reserves and other contingency reserves, and
26 all other obligations and indebtedness of the authority; however, no
27 such rates or charges shall be changed until a public hearing on such
28 changes shall have been held upon not less than fourteen days' notice
29 thereof to each customer, either by mail or by publication once in a
30 newspaper having general circulation within the district;

31 22. enter into cooperative agreements with other authorities, municipi-
32 palities, counties, cities, towns, villages, water districts, utility
33 companies, individuals, firms or corporations, within or without the
34 territorial limits of the district for the interconnection of facili-
35 ties, the exchange or interchange of services and commodities, the
36 conservation, preservation and protection of the authority's water
37 reserve as it is affected within and outside the authority's supply
38 area, and, within the territorial limits of the district, to enter into
39 a contract for the construction, operation and maintenance of a water
40 supply and distribution system by the authority for any municipality
41 having power to construct and develop a water supply and distribution
42 system, upon such terms and conditions as shall be determined to be
43 reasonable including, but not limited to the reimbursement of all costs
44 of such construction, or for any other lawful purposes necessary or
45 desirable to effect the purposes of this title;

46 23. provide for the discontinuance or disconnection of the supply of
47 water for nonpayment of fees, rates, rents or other charges therefor
48 imposed by the authority, provided such discontinuance or disconnection
49 of any supply of water shall not be carried out except in the manner and
50 upon the notice as is required of a waterworks corporation pursuant to
51 subdivisions three-a, three-b and three-c of section eighty-nine-b and
52 section one hundred sixteen of the public service law;

53 24. contract for, provide and maintain such insurance as it deems
54 necessary or reasonable to:

55 (a) secure and protect its real and personal property from fire, theft
56 or other calamity or loss;

1 (b) secure and protect it against liability imposed by law for damages
2 for injuries to persons or property;

3 (c) secure and protect it against any liability which may be imposed
4 pursuant to section eighteen of the public officers law; and

5 (d) secure and protect it against any other liability, casualty or
6 loss as it deems necessary or reasonable; and

7 25. do all things necessary, convenient or desirable to carry out its
8 purposes and for the exercise of the powers granted in this title.

9 § 1114-f. Transfer of officers and employees. Any public officer or
10 employee under civil service, selected by the authority may, with the
11 consent of the commission, board, department or municipality by which he
12 or she has been employed, be transferred to the authority and shall be
13 eligible for such transfer and appointment without examination to compa-
14 rable offices, positions and employment under the authority. The salary
15 or compensation of any such officer or employee shall after such trans-
16 fer be paid by the authority, but notwithstanding the provisions of this
17 title, any such officers or employees so transferred to the authority,
18 pursuant to the provisions of this section, who are members of or bene-
19 ficiaries under any existing pension or retirement system, shall contin-
20 ue to have all rights, privileges, obligations and status with respect
21 to such fund system or systems as are now prescribed by law, but during
22 the period of their employment by the authority, all contributions to
23 any pension or retirement fund or system to be paid by the employer on
24 account of such officers and employees, shall be paid by the authority;
25 and all such officers and employees who have been appointed to positions
26 under the rules and classifications of the civil service commission
27 shall have the same status with respect thereto after transfer to the
28 authority as they had under their original appointments. The appointment
29 and promotion of all employees of the authority shall be made in accord-
30 ance with the provisions of the civil service law and such rules as the
31 civil service commission may adopt and make applicable to the authority.

32 § 1114-g. Bonds of the authority. 1. The authority shall have the
33 power and is hereby authorized from time to time to issue bonds, in
34 conformity with applicable provisions of the uniform commercial code, in
35 such principal amounts as it may determine to be necessary to pay the
36 cost of any water project or projects or for any other corporate
37 purposes, including incidental expenses in connection therewith. The
38 authority shall have power from time to time to refund any bonds by the
39 issuance of new bonds whether the bonds to be refunded have or have not
40 matured, and may issue bonds partly to refund bonds then outstanding and
41 partly for any other corporate purpose. Bonds issued by the authority
42 may be general obligations secured by the faith and credit of the
43 authority or may be special obligations payable solely out of particular
44 revenues or other moneys of the authority as may be designated in the
45 proceedings of the authority under which the bonds shall be authorized
46 to be issued, subject to any agreements with the holders of outstanding
47 bonds pledging particular revenues or moneys.

48 2. The authority is authorized to obtain from any department or agency
49 of the United States of America or nongovernmental insurer any insurance
50 or guaranty, or any other credit enhancement arrangement with any bank
51 or other financial institution to the extent now or hereafter available,
52 as to, or for the payment or repayment of interest or principal, or
53 both, or any part thereof, on any bonds issued by the authority and to
54 enter into any agreement or contract with respect to any such insurance
55 or guaranty, except to the extent that the same would in any way impair
56 or interfere with the ability of the authority to perform and fulfill

1 the terms of any agreement made with the holders of the bonds of the
2 authority.

3 3. Bonds shall be authorized by resolution of the authority, and may
4 be in such denominations and bear such date or dates and mature at such
5 time or times as such resolution may provide except that bonds and any
6 renewal thereof shall mature within forty years of the date of their
7 original issuance and notes and any renewal thereof shall mature within
8 five years of the date of their original issuance. Such bonds shall be
9 subject to such terms of redemption, bear interest at such rate or
10 rates, which may vary from time to time, as may be necessary to effect
11 the sale thereof and shall be payable at such times, be in such form,
12 carry such registration privileges, be executed in such manner, be paya-
13 ble in such medium of payment at such place or places, and be subject to
14 such terms and conditions as such resolution may provide. Bonds may be
15 sold at public sale or at private sale for such price or prices as the
16 authority shall determine, provided that no issue of bonds may be sold
17 at private sale unless the terms of such sale shall have been approved
18 in writing by:

19 (a) the comptroller, where such sale is not to the comptroller; or

20 (b) the director of the division of the budget of the state, where
21 such sale is to the comptroller.

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

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

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

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

33 (d) limitations on the purpose to which the proceeds from the sale of
34 bonds may be applied;

35 (e) limitations on the right of the authority to restrict and regulate
36 the use of any project or part thereof in connection with which bonds
37 are issued;

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

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

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

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

49 (j) vesting in a trustee or trustees such properties, rights, powers
50 and duties in trust as the authority may determine, which may include
51 any or all of the rights, powers and duties of the trustee appointed by
52 the bondholders pursuant to section eleven hundred fourteen-h of this
53 title and limiting or abrogating the rights of the bondholders to
54 appoint a trustee under such section or limiting the rights, duties and
55 powers of such trustee;

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

8 (l) limitations on the power of the authority to sell or otherwise
9 dispose of any system or any part thereof or other property;

10 (m) limitations on the amount of revenues and other moneys to be
11 expended for operating, administrative or other expenses of the authori-
12 ty;

13 (n) the protection and enforcement of the rights and remedies of the
14 bondholders;

15 (o) the obligations of the authority in relation to the construction,
16 maintenance, operation, repairs and insurance of the properties, the
17 safeguarding and application of all moneys and as to the requirements
18 for the supervision and approval of consulting engineers in connection
19 with construction, reconstruction and operation;

20 (p) the payment of the proceeds of bonds, revenues and other moneys to
21 a trustee or other depository, and for the method of disbursement there-
22 of with such safeguards and restrictions as the authority may determine;
23 and

24 (q) any other matters of like or different character which in any way
25 affect the security or protection of the bonds or the rights and reme-
26 dies of bondholders.

27 5. In addition to the powers conferred upon the authority in this
28 section to secure its bonds, the authority shall have power in
29 connection with the issuance of bonds to enter into such agreements as
30 the authority may deem necessary, consistent or desirable concerning the
31 use or disposition of its revenues or other moneys or property, includ-
32 ing remarketing agreements or other similar agreements for the bonds,
33 the mortgaging of any property and the entrusting, pledging or creation
34 of any other security interest in any such revenues, moneys, or property
35 and the doing of any act, including refraining from doing any act, which
36 the authority would have the right to do in the absence of such agree-
37 ments. The authority shall have power to enter into amendments of any
38 such agreements within the powers granted to the authority by this title
39 and to perform such agreements. The provisions of any such agreements
40 may be made a part of the contract with the holders of bonds of the
41 authority.

42 6. Any provision of the uniform commercial code to the contrary
43 notwithstanding, any pledge of or other security interest in revenues,
44 moneys, accounts, contract rights, general intangibles or other personal
45 property made or created by the authority shall be valid, binding and
46 perfected from the time when such pledge is made or other security
47 interest attaches without any physical delivery of the collateral or
48 further act, and the lien of any such pledge or other security interest
49 shall be valid, binding and perfected against all parties having claims
50 of any kind in tort, contract or otherwise against the authority irre-
51 spective of whether or not such parties have notice thereof. No instru-
52 ment by which such a pledge or security interest is created nor any
53 financing statement need be recorded or filed.

54 7. Whether or not the bonds of the authority are of such form and
55 character as to be negotiable instruments under the terms of the uniform
56 commercial code, the bonds are hereby made negotiable instruments within

1 the meaning of and for all purposes of the uniform commercial code,
2 subject only to the provisions of the bonds for registration.

3 8. Neither the members of the board of directors nor the officers of
4 the authority nor any person executing bonds shall be liable personally
5 thereon or be subject to any personal liability or accountability solely
6 by reason of the issuance thereof.

7 9. The authority, subject to such agreements with bondholders as then
8 may exist, shall have power out of any moneys available therefor to
9 purchase bonds of the authority in lieu of redemption, at a price not
10 exceeding:

11 (a) if the bonds are then redeemable, the redemption price then appli-
12 cable, plus accrued interest to the next interest payment date; or

13 (b) if the bonds are not then redeemable, the redemption price then
14 applicable on the first date after such purchase upon which the bonds
15 become subject to redemption plus accrued interest to the next interest
16 payment date.

17 10. The authority shall have power and is hereby authorized to issue
18 negotiable bond anticipation notes in conformity with applicable
19 provisions of the uniform commercial code and may renew the same from
20 time to time but the maximum maturity of any such note, including
21 renewals thereof, shall not exceed five years from the date of issue of
22 such original note. Such notes shall be paid from any moneys of the
23 authority available therefor and not otherwise pledged or from the
24 proceeds of sale of the bonds of the authority in anticipation of which
25 they were issued. The notes shall be issued in the same manner as the
26 bonds and such notes and the resolution or resolutions authorizing the
27 same may contain any provisions, conditions or limitations which the
28 bonds or bond resolution of the authority may contain. Such notes may be
29 sold at public sale or, upon the approval of the comptroller of the
30 terms thereof, at private sale. Such notes shall be as fully negotiable
31 as the bonds of the authority.

32 § 1114-h. Remedies of bondholders. 1. In the event that the authority
33 shall default in the payment of principal of or interest on any issue of
34 the bonds after the same shall become due, whether at maturity or upon
35 call for redemption, and such default shall continue for a period of
36 thirty days, or in the event that the authority shall fail or refuse to
37 comply with the provisions of this title, or shall default in any agree-
38 ment made with the holders of any issue of the bonds, the holders of
39 twenty-five per centum in aggregate principal amount of the bonds of
40 such issue then outstanding, by instrument or instruments filed in the
41 office of the clerk of the applicable county and proved or acknowledged
42 in the same manner as a deed to be recorded, may appoint a trustee to
43 represent the holders of such bonds for the purposes herein provided.

44 2. Such trustee may, and upon written request of the holders of twen-
45 ty-five per centum in principal amount of such bonds outstanding shall,
46 in his or her own name:

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

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

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

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

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

5 3. Such trustee shall in addition to the foregoing have and possess
6 all of the powers necessary or appropriate for the exercise of any func-
7 tions specifically set forth herein or incidental to the general repre-
8 sentation of bondholders in the enforcement and protection of their
9 rights.

10 4. The state supreme court, county of Nassau and the state shall have
11 jurisdiction of any action or proceeding by the trustee on behalf of
12 such bondholders.

13 5. Before declaring the principal of bonds due and payable, the trus-
14 tee shall first give thirty days' notice in writing to the authority.

15 § 1114-i. State and municipalities not liable on authority bonds.
16 Neither the state nor any municipality shall be liable on the bonds of
17 the authority and such bonds shall not be a debt of the state or of any
18 municipality.

19 § 1114-j. Moneys of the authority. All moneys of the authority from
20 whatever source derived shall be paid to the treasurer and shall be
21 deposited forthwith in one or more banks and/or trust companies in the
22 state designated by the authority. The moneys in such accounts shall be
23 paid out on checks of the treasurer upon requisition by the chairperson
24 of the authority or of such other officer or officers as the authority
25 may authorize to make such requisitions. All deposits of such moneys
26 shall be secured by obligations of or guaranteed by the United States of
27 America or of the state of a market value equal at all times to the
28 amount on deposit and all banks and trust companies are authorized to
29 give such security for such deposits. Any moneys of the authority not
30 required for immediate use or disbursement may, at the discretion of the
31 authority, be invested in those obligations specified pursuant to the
32 provisions of section ninety-eight-a of the state finance law. The
33 authority shall have power, notwithstanding the provisions of this
34 section, to contract with the holders of any bonds as to the custody,
35 collection, security, investment and payment of any moneys of the
36 authority or any moneys held in trust or otherwise for the payment of
37 bonds or in any way to secure bonds. Moneys held in trust or otherwise
38 for the payment of bonds or in any way to secure bonds and deposits of
39 such moneys may be secured in the same manner as moneys of the authority
40 and all banks and trust companies are authorized to give such security
41 for such deposits.

42 § 1114-k. Bonds; legal investments for fiduciaries. The bonds of the
43 authority are hereby made securities in which all public officials and
44 bodies of the state and all municipalities, all insurance companies and
45 associations and other persons carrying on an insurance business, all
46 banks, bankers, trust companies, savings banks and savings associations,
47 including savings and loan associations, investment companies and other
48 persons carrying on a banking business, and administrators, guardians,
49 executors, trustees and other fiduciaries and all other persons whatso-
50 ever, who are now or may hereafter be authorized to invest in bonds or
51 other obligations of the state, may properly and legally invest funds
52 including capital in their control or belonging to them. The bonds are
53 also hereby made securities which may be deposited with and may be
54 received by all public officers and bodies of the state and all munici-
55 palities for any purposes for which the deposit of bonds or other obli-
56 gations of the state is now or hereafter may be authorized.

1 § 1114-l. Agreement with the state. The state does hereby pledge to
2 and agree with the holders of any bonds issued by the authority pursuant
3 to this title that the state will not alter or limit the rights hereby
4 vested in the authority to fulfill the terms of any agreement made with
5 or for the benefit of the holders of bonds or in any way impair the
6 rights and remedies of bondholders until the bonds together with the
7 interest thereon, with interest on any unpaid installments of interest,
8 and all costs and expenses in connection with any action or proceeding
9 by or on behalf of such holders, are fully met and discharged. The
10 authority is authorized to include this pledge and agreement of the
11 state in any agreement with bondholders.

12 § 1114-m. Exemption from taxes, assessments and certain fees; payments
13 in lieu of taxes. 1. It is hereby determined that the creation of the
14 authority and the carrying out of its corporate purposes is in all
15 respects for the benefit of the people of the state and is a public
16 purpose, and the authority shall be regarded as performing a govern-
17 mental function in the exercise of the powers conferred upon it by this
18 title and shall not be required to pay any taxes, special ad valorem
19 levies or special assessments upon any real property owned by it or any
20 filing, recording or transfer fees or taxes in relation to instruments
21 filed, recorded or transferred by it or on its behalf.

22 2. The authority may pay, or may enter into agreements with any muni-
23 cipality to pay, a sum or sums annually or otherwise or to provide other
24 considerations to such municipality with respect to real property owned
25 by the authority located within such municipality and constituting a
26 part of its water system.

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

34 4. The state hereby covenants with the purchasers and with all subse-
35 quent holders and transferees of bonds issued by the authority pursuant
36 to this title, in consideration of the acceptance of and payment for the
37 bonds, that the bonds of the authority issued pursuant to this title and
38 the income therefrom shall be exempt from such taxation, as stated in
39 subdivision three of this section, and that all revenues, moneys, and
40 other property pledged to secure the payment of such bonds shall at all
41 times be free from such taxes as stated in such subdivision.

42 5. Notwithstanding the provisions of subdivisions one, two, three and
43 four of this section, nothing herein shall prevent the state from
44 assessing a tax or surcharge against the water customers based on their
45 water consumption, provided, however, that all such taxes and surcharges
46 and the authority's obligation to collect and pay such taxes and
47 surcharges shall be subordinate to the rights of holders of all of the
48 authority's bonds and notes and to the payment of principal, premiums if
49 any, and interest thereon.

50 § 1114-n. Actions against the authority. 1. Except in an action for
51 wrongful death, no action or proceeding shall be prosecuted or main-
52 tained against the authority for personal injury or damage to real or
53 personal property alleged to have been sustained by reason of the negli-
54 gence or wrongful act of the authority or any member, officer, agent or
55 employee thereof, unless:

1 (a) a notice of claim shall have been made and served upon the author-
2 ity within the time limit by and in compliance with section fifty-e of
3 the general municipal law;

4 (b) it shall appear by and as an allegation in the complaint or moving
5 papers that at least thirty days have elapsed since the service of such
6 notice and that adjustment or payment thereof has been neglected or
7 refused;

8 (c) the action or proceeding shall be commenced within one year and
9 ninety days after the happening of the event upon which the claim is
10 based; and

11 (d) An action against the authority for wrongful death shall be
12 commenced in accordance with the notice of claim and time limitation
13 provisions of title eleven of article nine of this chapter.

14 2. Wherever a notice of claim is served upon the authority, it shall
15 have the right to demand an examination of the claimant relative to the
16 occurrence and extent of the injuries or damages for which claim is
17 made, in accordance with the provisions of section fifty-h of the gener-
18 al municipal law.

19 3. The authority may require any person presenting for settlement an
20 account or claim for any cause whatsoever against the authority to be
21 sworn before a member, counsel, or an attorney, officer or employee
22 thereof designated for such purpose, concerning such account or claim
23 and when so sworn, to answer orally as to any facts relative to such
24 account or claim. The authority shall have power to settle or adjust all
25 claims in favor of or against the authority.

26 4. The rate of interest to be paid by the authority or water board
27 upon any judgment for which it is liable, other than a judgment against
28 the authority on its bonds, shall not exceed the rate of interest on
29 judgments and accrued claims against municipal corporations as provided
30 in the general municipal law from time to time. Interest on payments of
31 principal or interest on any bonds in default shall accrue at the rate
32 borne by such bonds from the date thereof until paid or otherwise satis-
33 fied.

34 § 1114-o. Conflicts of interest of members of the board of directors
35 and officers and employees of the authority. No member of the board of
36 directors or officer or employee of the authority shall have any inter-
37 est in any contract, or take any action or otherwise involve himself or
38 herself in any activity which, pursuant to article eighteen of the
39 general municipal law, would be deemed a conflict of interest for a
40 municipal officer or employee holding a position with a municipality
41 similar to the position held by the member, officer or employee with the
42 authority.

43 § 1114-p. Construction and purchase contracts. The authority shall let
44 contracts for construction or purchase of supplies, materials, or equip-
45 ment pursuant to section one hundred three of the general municipal law.
46 Nothing in this section shall be construed to limit the power of the
47 authority to do any construction directly by the officers, agents and
48 employees of the authority or to contract with a public utility, for a
49 term not to exceed five years, for the operation and maintenance of a
50 water supply system acquired from said public utility.

51 § 1114-q. Separability clause. If any section, clause or provision in
52 this title shall be held by a competent court to be unconstitutional or
53 ineffective in whole or in part, to the extent that it is not unconsti-
54 tutional or ineffective, it shall be valid and effective, and no other
55 section, clause or provision shall on account thereof be deemed invalid
56 or ineffective.

1 § 1114-r. Effect of inconsistent provisions. Insofar as the provisions
2 of this title are inconsistent with the provisions of any other law,
3 general, special or local, or of any charter or any local ordinance or
4 resolution of any municipality, the provisions of this title shall be
5 controlling, provided that nothing contained in this title shall be held
6 to supplement or otherwise expand the powers or duties of the authority
7 otherwise set forth in this title. Nothing contained in this title shall
8 be held to alter or abridge the powers and duties of the department of
9 environmental conservation or the department of health.

10 § 1114-s. Acquisition by eminent domain. Notwithstanding any provision
11 of the eminent domain procedure law to the contrary, in any proceeding
12 brought by the authority pursuant to said law, title shall vest in the
13 authority and compensation shall be paid only:

14 1. upon a decision by the supreme court that compensation for the
15 property so condemned shall be determined solely by the income capital-
16 ization method of valuation, based on the actual net income as allowed
17 by the public service commission; and

18 2. upon such court's determination of the amount of such compensation,
19 based upon the income capitalization method, entry of the final judg-
20 ment, the filing of the final decree, and the conclusion of any appeal
21 or expiration of the time to file an appeal related to the condemnation
22 proceeding. Should any court determine that a method of compensation
23 other than the income capitalization method be utilized, or if the
24 proposed award is more than the rate base of the assets taken in condem-
25 nation as utilized by the public service commission in setting rates and
26 as certified by the public service commission, the authority may with-
27 draw the condemnation proceeding without prejudice or costs to any
28 party.

29 § 2. This act shall take effect on the ninetieth day after it shall
30 have become a law.