

STATE OF NEW YORK

7963

2021-2022 Regular Sessions

IN ASSEMBLY

June 4, 2021

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

AN ACT in relation to the assessment of property owned by water-works corporations; and to amend the public authorities law and the general municipal 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, shall be subject to the following limita-
8 tions:

9 (a) the taxable assessed valuation of such property on final assess-
10 ment rolls required by law to be completed, and filed in 2021 shall not
11 exceed sixty-six percent of the taxable assessed valuation of such real
12 property on final assessment rolls required by law to be completed and
13 filed in 2020;

14 (b) the taxable assessed valuation of such property on final assess-
15 ment rolls required by law to be completed and filed in 2022 shall not
16 exceed thirty-three percent of the taxable assessed valuation of such
17 real property on final assessment rolls required by law to be completed
18 and filed in 2020; and

19 (c) such property shall be exempt from taxation on final assessment
20 rolls required by law to be completed and filed after 2022.

21 Provided, however, that notwithstanding any provision of the real
22 property tax law to the contrary, the commissioner of taxation and
23 finance shall be authorized and directed to correct the final special

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

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franchise assessments certified for final assessment rolls required by law to be completed and filed in 2021 to take account of the provisions of this section, without providing advance notice thereof or conducting a hearing thereon. Upon receipt of the commissioner's corrected certification, the assessor shall be authorized and directed to correct the 2021 final assessment roll accordingly. The commissioner shall determine special franchise assessments in accordance with the provisions of this section for final assessment rolls required by law to be completed and filed after 2021.

§ 3. Any reduction in the taxable assessed value or removal of property in any taxing jurisdiction resulting from section two of this act shall not be reflected in any determinations or adjustments required pursuant to articles 18 or 19 of the real property tax law; provided, however, that an amount of taxable assessed value equivalent to any reduction in the taxable assessed value in any class in any taxing jurisdiction resulting from section two of this act shall be added to the total taxable assessed value of such class in such taxing jurisdiction, as adjusted to take into account any change in the level of assessment of the class, except that no such amount shall be added to the taxable assessed value of such class when determining the tax rates for such class. The department of public service and the public service commission shall ensure that, to the extent this section results in (a) a shift in property taxes associated with a gas or electric plant owned by a gas or electric corporation having gross revenues in excess of \$500 million and serving customers residing in either New York city or Long Island; or (b) a shift in payments in lieu of taxes owed by the Long Island power authority, any associated rate impacts shall be borne by customers of such corporation or authority residing in Nassau county, and not residing in Suffolk county or New York city.

§ 4. Any tax relief realized by section two of this act shall be used to reduce current water rates and offset future water rate increases.

§ 5. The provisions of this act shall only apply to water-works corporations that are subject to the jurisdiction of the New York public service commission and operating in a county with a population of one million or more that has a four-class property tax system.

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

Title 4-A

NASSAU COUNTY WATER AUTHORITY

Section 1092-a. Short title.

1092-b. Definitions.

1092-c. Nassau county water authority.

1092-d. Powers of the authority.

1092-e. Miscellaneous requirements.

1092-f. Additional powers of the county of Nassau and towns and villages within Nassau county.

1092-g. Acquisition by eminent domain.

1092-h. Charges by authority; method of collection.

1092-i. Survey of water resources.

1092-j. Bonds.

1092-k. Notes of the authority.

1092-l. Bonds as legal investments.

1092-m. Bonds and property of the authority exempt from taxation.

1092-n. State, county and municipalities not liable on bonds.

1092-o. Agreements of the state.

1092-p. Contracts for sale of water wholesale.

1092-q. Audit of authority; annual report.

1092-r. Interest in contracts prohibited.

1092-s. Contracts.

1092-t. Actions.

1092-u. Expenses of hearing.

1092-v. Transfer of officers and employees.

1092-w. Severability.

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

§ 1092-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. The term "authority" shall mean the corporation created by section one thousand ninety-two-c of this title;

2. The term "municipality" shall mean any county, city, town, village, town water district, fire district, fire protection district, fire alarm district, school district, and any other political subdivision of the state;

3. The term "bonds" shall mean the bonds issued by the authority pursuant to this title; and

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

§ 1092-c. Nassau county water authority. 1. The corporate existence of the Nassau county water authority shall be a body corporate and politic, constituting a public benefit corporation. It shall consist of seven members all of whom shall be residents of the county of Nassau and whom shall be appointed as follows: four members, including the chairperson of such authority, to be appointed by the county executive; two members to be appointed by the majority leader of the county legislature; and one member to be appointed by the minority leader of the county legislature. The chairperson shall serve for an initial term of five years. One member appointed by the county executive shall serve for an initial term of one year, one member appointed by the majority leader of the county legislature shall serve for an initial term of one year, the second member appointed by the majority leader of the county legislature shall serve for an initial term of two years, and one member appointed by the minority leader of the county legislature shall serve for an initial term of two years. All remaining initial members, other than the chairperson, shall serve for a term of three years. Thereafter, upon expiration of the term of a member of the authority, a successor shall be appointed for a term expiring three years after the expiration of the term of the predecessor, and for a term expiring five years after the expiration of the term of the predecessor for the chairperson. All initial appointments of members of such authority shall be made by December thirty-first, two thousand twenty-one. All members shall continue to hold office until their successors are appointed and qualify. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointments made for unexpired terms. Appointments to fill expired and unexpired terms shall be made within sixty days after the vacancy occurs. Members of the authority may be removed from office for the same reasons and in the same manner as may be provided by law for the removal of officers of the county. The members of the authority shall receive such compensation for their services as shall be fixed as specified by the county legislature and be reimbursed for all expenses incurred in connection with the carrying out of the purposes of this title. The powers of the authority shall be

1 vested in and be exercised by the members at a meeting duly called and
2 held and five members shall constitute a quorum. No action shall be
3 taken except pursuant to the favorable vote of at least four members.
4 The authority may delegate to one or more of its members, officers,
5 agents or employees such powers and duties as it may deem proper. The
6 corporate existence of such authority shall continue until its liabil-
7 ities have been met and its bonds have been paid in full. Upon ceasing
8 to exist, all its rights and property shall pass to the county of
9 Nassau.

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

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

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

28 5. Until the authority commences supplying water to retail or whole-
29 sale customers within the county of Nassau, the authority may request
30 and shall receive, to the extent practicable, such technical assistance
31 from the department of public service as will enable the authority to
32 carry out its powers and duties under this chapter.

33 § 1092-d. Powers of the authority. 1. Except as otherwise limited by
34 this title, the authority shall have the power to:

35 (a) sue and be sued;

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

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

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

(ii) condemn, in the name of the authority, except where located in another county, any water supply system, water distribution system, including plants, works, instrumentalities, or parts thereof and appurtenances thereto, lands, easements, rights in land and water rights, rights-of-way, contract rights, franchises, approaches, connections, dams, reservoirs, water mains and pipe lines, pumping stations and equipment, or any other property incidental to and included in such system or part thereof, and any improvements, extensions and betterments for the purpose of supplying water for domestic, commercial and public purposes at retail to individual consumers within the county of Nassau or at wholesale in the manner provided by paragraph (g) of this subdivision. The authority shall exercise the power of condemnation hereby granted in the manner provided by the condemnation law. In the exercise of such power of condemnation, the property being condemned shall be deemed, when so determined by the authority, to be for a public use superior to the public use in the hands of any other person, association, or corporation, provided, however, that the authority shall have no power to condemn property the legal title to which is vested in a municipality unless such municipality shall consent thereto;

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

(iv) acquire, hold, use, lease, sell, transfer and dispose of any property, real, personal or mixed, or interest therein, for its corporate purposes;

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

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

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

(h) make contracts and execute all instruments necessary or convenient;

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

3 (j) appoint officers, agents and employees as it may require for the
4 performance of its duties, fix and determine their qualifications,
5 duties, compensations and terms of office or tenure, subject to the
6 provisions of the civil service law of the state and such rules as the
7 civil service commission may adopt and make applicable to the authority,
8 and from time to time contract for expert professional services;

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

11 (l) enter into a contract or contracts with Nassau county for the
12 acquisition, construction and development of a water supply and distrib-
13 ution system, or any part or parts thereof, on behalf of a county water
14 district, and to contract for the operation and management of such coun-
15 ty water district, all as provided in article five-A of the county law
16 and article five-B of the general municipal law. Such water authority
17 shall be deemed the agent of Nassau county under any such contract. If
18 such contract shall authorize the water authority to purchase supplies
19 or equipment or to construct public works, such authority shall be
20 subject to all provisions of law to which Nassau county would be subject
21 in relation to advertising and awarding any such contracts for supplies,
22 equipment or public works; and

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

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

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

49 § 1092-e. Miscellaneous requirements. 1. The authority shall not
50 refuse to sell water service to residential tenants for the sole reason
51 that the premises of such tenants receiving water service are rented. No
52 discontinuance or disconnection of any supply of water shall be carried
53 out except in the manner and upon the notice as is required of a water-
54 works corporation pursuant to subdivisions three-a, three-b and three-c
55 of section eighty-nine-b and section one hundred sixteen of the public

1 service law. The authority shall meter service to its customers within
2 two years of the effective date of this title.

3 2. Nothing contained in this title shall be construed to diminish the
4 rights of employees pursuant to a collective bargaining agreement.

5 § 1092-f. Additional powers of the county of Nassau and towns and
6 villages within Nassau county. 1. (a) In addition to any powers granted
7 by any general or special law, the county legislature, acting on behalf
8 of the county, and any town board or village board of trustees of any
9 town or village within the county of Nassau, acting on behalf of such
10 town or village, either separately or pursuant to agreements among them-
11 selves, may, from time to time, appropriate by resolution sums of money
12 to defray costs and expenses of the authority associated with the exten-
13 sion of authority mains to areas in the county within which the county
14 department of health services has documented that private wells provid-
15 ing water to home owners have become contaminated with pollutants in
16 concentrations greater than recommended by any drinking water guidelines
17 or standard established by the federal government or this state, and may
18 enter into a contract or contracts with the authority to so extend
19 authority mains.

20 (b) In areas of documented groundwater contamination where potable
21 water may be more economically supplied by a municipal water authority,
22 special district or improvement area established to provide a water
23 improvement, or by a village, than by the authority, the county legisla-
24 ture and any town board or village board of trustees within Nassau coun-
25 ty may appropriate sums of money to said municipal water authority,
26 special district or improvement area or village, and enter into a
27 contract or contracts, in accordance with this subdivision.

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

33 3. Appropriations of money by the county legislature and any town
34 board or village board of trustees in the county of Nassau to the
35 authority or to a municipal water authority, special district or
36 improvement area or village within Nassau county, and any contract or
37 contracts entered into with said authority or municipal water authority,
38 special district or improvement area or village prior to the effective
39 date of this section that are consistent with the authorization in
40 subdivision one of this section are hereby legalized, validated, rati-
41 fied and confirmed.

42 § 1092-g. Acquisition by eminent domain. Notwithstanding any provision
43 of the eminent domain procedure law to the contrary, in any proceeding
44 brought by the authority pursuant to such law, title shall vest in the
45 authority and compensation shall be paid only (i) upon a decision by the
46 supreme court that compensation for the real property so condemned shall
47 be determined solely by the income capitalization method of valuation,
48 based on the actual net income as allowed by the public service commis-
49 sion, and (ii) upon such court's determination of the amount of such
50 compensation, based upon the income capitalization method, entry of the
51 final judgment, the filing of the final decree, and the conclusion of
52 any appeal or expiration of the time to file an appeal related to the
53 condemnation proceeding. If any court shall utilize any method of
54 compensation other than the income capitalization method, or if the
55 proposed compensation is more than the rate base of the assets taken in
56 condemnation as utilized by the public service commission in setting

1 rates and as certified by the public service commission, the authority
2 may withdraw the condemnation proceeding without prejudice or costs to
3 any party.

4 § 1092-h. Charges by authority; method of collection. All rates, fees
5 and other charges for the use or availability of the facilities or
6 services or commodities provided or made available by the authority and
7 billed directly by the authority to the user or service recipient pursu-
8 ant to a classification of person adopted by the authority as herein
9 provided shall be a lien upon the real property upon which, or in
10 connection with which, services are provided or are made available, as
11 and from the first date fixed for a payment of such rates, fees and
12 other charges. Any such lien shall take precedence over all other liens,
13 or encumbrances, except taxes or assessments. The chief financial offi-
14 cer of the authority shall prepare and transmit to the receiver of
15 taxes, on or before the first day of November in each year, a list of
16 those properties using such facilities or for which such facilities,
17 services or commodities were provided or made available and from which
18 the payment of rates, fees and other charges are in arrears for a period
19 of ninety days or more after the last day fixed for payment of such
20 rates, fees and other charges without penalty. The list shall contain a
21 brief description of such properties, the names of the persons or corpo-
22 rations liable to pay for the same, and the amount chargeable to each,
23 including penalties and interest, as applicable, computed to December
24 thirty-first of that year. The county shall levy such sums against the
25 properties liable and shall state the amount thereof in a separate
26 column in the annual tax rolls of the county under the heading "water
27 charge". Such amounts, excluding penalties and interest imposed by the
28 county when collected by the receivers of taxes or county treasurer,
29 shall be paid over to the chief financial officer of the authority.
30 County imposed penalties and interest shall be retained by the county
31 treasurer or receiver of taxes which shall become a part of the general
32 funds of the county. All of the provisions of the real property tax law
33 of the state or the Nassau county administrative code, as applicable,
34 governing enforcement and collection of unpaid taxes or assessments for
35 special improvements not inconsistent herewith shall apply to the
36 collection of such unpaid rates, rentals, fees and other charges.

37 § 1092-i. Survey of water resources. The legislature of Nassau county
38 may, by resolution, appropriate a sum of money to defray the preliminary
39 expenses of such authority so created and may thereafter appropriate
40 such sums as may be required, for the purpose of making a survey of the
41 water resources of the said county, and the preparation of a map or plan
42 for the development thereof. The authority shall, as soon as possible,
43 make a survey of the water resources of the county, and prepare a map
44 and plan for the development of the same showing in detail the proposed
45 sources of water to be developed, and the municipalities and areas which
46 may be served thereby. Application for approval of the project shall
47 then be made to the department of environmental conservation as provided
48 by title fifteen of article fifteen of the environmental conservation
49 law. If so approved, the authority shall enter into such contracts or
50 agreements as may be necessary to carry out the plan of such develop-
51 ment. The authority may, however, acquire by purchase or condemnation
52 any existing water supply and distribution system without making such
53 survey; provided, however, that the authority shall not acquire any
54 existing water supply and distribution system owned by a municipality
55 unless the governing board thereof shall adopt a resolution requesting
56 the authority to make such acquisition.

1 § 1092-j. Bonds. 1. The authority shall have power and is hereby
2 authorized from time to time to issue its negotiable bonds in conformity
3 with applicable provisions of the uniform commercial code. Such bonds
4 shall be authorized by resolution of the authority and shall bear such
5 date or dates, mature at such time or times in not exceeding forty years
6 from their respective date or dates, subject to such option or options
7 of redemption, as may be provided in the resolution authorizing such
8 bonds, at par or at a price not exceeding one hundred five per centum of
9 their face value, together with accrued interest, bear interest at such
10 rate or rates that the cost to maturity of the money for any issue of
11 such bonds shall not exceed six per centum per annum, payable annually
12 or semi-annually, be in such denominations, and in such form, either
13 coupon or registered, and be executed in such manner, and be payable in
14 such medium of payment, at such place or places, and be subject to such
15 terms and conditions as such resolution or resolutions may provide.

16 2. All bonds of the authority shall be sold at public sale upon sealed
17 bids in an electronic format to the bidder who shall offer the lowest
18 interest cost to the authority to be determined by the authority. The
19 notice of sale shall be published at least once not less than ten nor
20 more than forty days before the date of sale in a newspaper designated
21 by the authority and shall call for the receipt of sealed bids and shall
22 fix the date, time and place of sale.

23 3. Notwithstanding the foregoing provisions requiring public sale, any
24 bonds of the authority may be sold by the authority upon the approval of
25 the comptroller at private sale at such price or prices as the authority
26 shall determine not exceeding the interest cost herein provided, and the
27 authority also may sell at private sale for such price or prices as the
28 authority shall determine not exceeding the interest cost herein
29 provided, any bonds authorized for the purpose of paying the cost of
30 acquiring by condemnation a privately owned public water supply and
31 distribution system, provided such bonds are sold within one year of the
32 date of completion of such condemnation and the proceedings for such
33 condemnation were commenced prior to or not more than two years from the
34 effective date of this title.

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

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

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

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

48 (c) limitations on the right of the authority to restrict and regulate
49 the use of water and to alter or reduce rates or charges for the use of
50 water;

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

52 (e) the application of funds and the safeguarding of funds on hand or
53 on deposit, including the requiring of the giving of security for depos-
54 it of such funds by depository banks or trust companies. Unless other-
55 wise provided in said resolution, all deposits of funds of the authority
56 shall be secured in the manner provided by law for securing deposits of

1 county moneys. All banks and trust companies are authorized to give
2 such security for such deposits; and

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

9 6. The authority shall have power from time to time whenever it deems
10 refunding expedient, to refund any bonds by the issuance of new bonds,
11 whether the bonds to be refunded have or have not matured, and may issue
12 bonds partly to refund bonds then outstanding and partly for any of its
13 corporate purposes. Refunding bonds may be delivered by the authority to
14 the purchasers thereof at any time prior to the date of maturity or
15 redemption date of the bonds proposed to be refunded, if the authority
16 shall determine that such action shall be financially sound and advanta-
17 geous to the authority. The rate or rates of interest of the refunding
18 bonds shall not be limited by the rate or rates of interest borne by any
19 of the bonds to be refunded by such bonds, but all of the provisions of
20 this section with reference to the sale of bonds of the authority, and
21 the interest cost of the money raised by the sale thereof, shall apply
22 to such refunding bonds.

23 7. Except as may be otherwise expressly provided by the authority,
24 every issue of bonds by the authority shall be general obligations paya-
25 ble out of any moneys, earnings or revenues of the authority, subject
26 only to any agreements with the holders of particular bonds pledging any
27 particular moneys, earnings or revenues.

28 8. Neither the members of the authority nor any person executing the
29 bonds shall be personally liable on the bonds or be subject to any
30 personal liability or accountability by reason of the issuance thereof.
31 The authority shall have the power, out of any funds available therefor,
32 to purchase (as distinguished from the power of redemption hereinabove
33 provided) any bonds issued by it at a price of not more than the princi-
34 pal amount thereof or the redemption price at which the bonds may be
35 redeemed at the next ensuing redemption date and accrued interest. All
36 bonds so purchased shall be cancelled.

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

49 § 1092-k. Notes of the authority. The authority shall have the power
50 and is hereby authorized to issue negotiable bond anticipation notes or
51 revenue anticipation notes in conformity with applicable provisions of
52 the uniform commercial code and may renew the same from time to time but
53 the maximum maturity of any such note, including renewals thereof, shall
54 not exceed five years from the date of issue of such original note. Such
55 notes shall be paid from any moneys of the authority available therefor
56 and not otherwise pledged or from the proceeds of sale of the bonds of

1 the authority in anticipation of which they were issued, or, subject to
2 the contractual rights of the holders of any bonds or notes then
3 outstanding, from the proceeds of the sale of any other bonds of the
4 authority. The notes shall be issued in the same manner as the bonds and
5 the resolution or resolutions authorizing the same may contain any
6 provisions, conditions or limitations which the bonds or a bond resol-
7 ution of the authority may contain. Such notes may be sold at public or
8 private sale at not less than par and shall bear interest at a rate not
9 exceeding six percent per annum. The provisions of sections one thousand
10 ninety-two-l, one thousand ninety-two-m, one thousand ninety-two-n and
11 one thousand ninety-two-o of this article relating to bonds of the
12 Nassau county water authority shall apply with the same full force and
13 effect to bond anticipation notes and revenue anticipation notes of the
14 authority herein authorized to be issued.

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

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

1 such bonds and notes, shall at all times be free from taxation except
2 for transfer and estate taxes.

3 § 1092-n. State, county and municipalities not liable on bonds. The
4 bonds of the authority shall not be a debt of the state of New York or
5 of the county or of any municipality in the county, and neither the
6 state nor the county nor any municipality in the county shall be liable
7 thereon, nor shall they be payable out of any funds other than those of
8 the authority.

9 § 1092-o. Agreements of the state. The state of New York does pledge
10 to and agree with the holders of the bonds that the state will not limit
11 or alter the rights hereby vested in the authority to acquire,
12 construct, maintain, operate, reconstruct and improve the properties, to
13 establish and collect the revenues, rates, rentals, fees and other
14 charges referred to in this title and to fulfill the terms of any agree-
15 ments made with the holders of the bonds, or in any way impair the
16 rights and remedies of the bondholders, until the bonds, together with
17 interest thereon, interest on any unpaid installments of interest, and
18 all costs and expenses in connection with any action or proceeding by or
19 on behalf of the bondholders, are fully met and discharged.

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

48 § 1092-q. Audit of authority; annual report. In conformity with the
49 provisions of section five of article ten of the constitution, the
50 accounts of the authority shall be subject to the supervision of the
51 state comptroller and such state comptroller and his legally authorized
52 representatives are hereby authorized and empowered from time to time to
53 examine the accounts and the books of the authority, including its
54 receipts, disbursements, contracts, leases, sinking funds, investments
55 and any other matters relating to its financial standing. The authority
56 shall annually submit to the governor and to the state legislature and

1 also to the legislature of Nassau county a detailed report pursuant to
2 the provisions of section twenty-eight hundred of this chapter.

3 § 1092-r. Interest in contracts prohibited. It shall be a misdemeanor
4 for any of the members of the authority, or any officer, agent, servant
5 or employee thereof, employed or appointed by them, to be in any way or
6 manner interested directly or indirectly in the furnishing of work,
7 materials, supplies or labor, or in any contract therefor which the
8 authority is empowered by this title to make.

9 § 1092-s. Contracts. All contracts, or orders, for work, material or
10 supplies performed or furnished in connection with construction shall be
11 awarded by the authority pursuant to resolution. Such contracts, or
12 orders, for work, material or supplies needed for any particular purpose
13 involving an expenditure of more than five thousand dollars shall be
14 awarded only after inviting sealed bids or proposals therefor. The
15 notice inviting sealed proposals shall be published at least once in a
16 newspaper or trade paper selected by the authority for such purpose,
17 such publication to be at least ten days before the date for the receipt
18 of bids. If the authority shall not deem it for the interest of the
19 authority to reject all bids, it shall award the contract to the lowest
20 bidder, unless the authority shall determine that it is for the public
21 interest that a bid other than the lowest bid should be accepted. In any
22 contract for work, material or supplies, there shall be inserted in the
23 discretion of the authority a provision that additional work may be done
24 or material or supplies furnished for the purpose of completing such
25 contract at an expense not exceeding fifteen per centum of the amount of
26 such contract if such additional work, material or supplies shall be
27 ordered by the authority. The bidder whose bid is accepted shall give
28 security for the faithful performance of the contract, and such other
29 security as the authority may require, and may be required to maintain
30 for such period as shall be stipulated any construction done under the
31 contract, all in the manner prescribed and required by the authority;
32 and the sufficiency of such security shall, in addition to the justi-
33 fication and acknowledgment, be approved by the authority. All bids or
34 proposals shall be publicly opened by the authority or its duly author-
35 ized agent. If the bidder whose bid has been accepted after advertising
36 shall neglect or refuse to accept the contract within five days after
37 written notice that the same has been awarded to him on his bid or
38 proposal, or, if he accepts but does not execute the contract and give
39 proper security, the authority shall have the right to declare such
40 bidder's deposit forfeited, and thereupon it shall be readvertised and
41 relet as above provided. In case any work shall be abandoned by any
42 contractor, the authority may, if the best interest of the authority be
43 thereby served, adopt on behalf of the authority any or all subcontracts
44 made by such contractor for such work and all such subcontractors shall
45 be bound by such adoption if made; and the authority shall, in the
46 manner provided herein, readvertise and relet the work specified in the
47 original contract exclusive of so much thereof as shall be provided for
48 in the subcontract or subcontracts so adopted. No bid shall be accepted
49 from or any contracts awarded to any person or corporation who is in
50 arrears to the authority, or the county of Nassau upon any debt or
51 contract, or is a defaulter as surety or otherwise upon any obligation
52 of the authority, or the county. Every contract involving an expendi-
53 ture of more than five thousand dollars when made and entered into as
54 herein provided for shall be executed in duplicate, one copy of which
55 shall be held by the authority and one copy of which shall be delivered
56 to the contractor. Upon the adoption of a resolution by a vote of two-

1 thirds of all the members of the authority stating that, for reasons of
2 efficiency or economy, there is need for standardization, purchase
3 contracts for a particular type or kind of equipment, material or
4 supplies of more than five thousand dollars may be awarded by the
5 authority to the lowest responsible bidder furnishing the required secu-
6 rity after advertisement for sealed bids therefor in the manner provided
7 in this section. Such resolution shall contain a full explanation of the
8 reasons for its adoption.

9 § 1092-t. Actions. In any case founded upon tort, a notice of claim
10 shall be required as a condition precedent to the commencement of an
11 action or special proceeding against the authority or any officer,
12 appointee or employee thereof, and the provisions of section fifty-e of
13 the general municipal law shall govern the giving of such notice.
14 Except in an action for wrongful death, an action against the authority
15 for damages for injuries to real or personal property, or for the
16 destruction thereof, or for personal injuries, alleged to have been
17 sustained, shall not be commenced more than one year and ninety days
18 after the cause of action therefor shall have accrued. An action against
19 the authority for wrongful death shall be commenced in accordance with
20 the notice of claim and time limitation provisions of title eleven of
21 article nine of this chapter.

22 § 1092-u. Expenses of hearing. The expenses of any hearing, determi-
23 nation or other action which the provisions of this title require of the
24 department of environmental conservation shall be paid by the applicant.
25 Bills for such expenses shall be certified by said department to the
26 applicant and paid by the applicant directly to the claimant within
27 thirty days of the date of such certification.

28 § 1092-v. Transfer of officers and employees. 1. Any public officer or
29 employee under civil service, selected by the authority may, with the
30 consent of the commission, board, department or municipality by which he
31 or she has been employed, be transferred to the authority and shall be
32 eligible for such transfer and appointment without examination to compa-
33 rable offices, positions and employment under the authority. The salary
34 or compensation of any such officer or employee shall after such trans-
35 fer be paid by the authority, but notwithstanding the provisions of this
36 title, any such officers or employees so transferred to the authority,
37 pursuant to the provisions of this section, who are members of or bene-
38 ficiaries under any existing pension or retirement system, shall contin-
39 ue to have all rights, privileges, obligations and status with respect
40 to such fund system or systems as are now prescribed by law, but during
41 the period of their employment by the authority, all contributions to
42 any pension or retirement fund or system to be paid by the employer on
43 account of such officers and employees, shall be paid by the authority;
44 and all such officers and employees who have been appointed to positions
45 under the rules and classifications of the civil service commission
46 shall have the same status with respect thereto after transfer to the
47 authority as they had under their original appointments. The appointment
48 and promotion of all employees of the authority shall be made in accord-
49 ance with the provisions of the civil service law and such rules as the
50 civil service commission may adopt and make applicable to the authority.

51 2. It is hereby declared that in the interest of efficiency and insofar
52 as it may be practicable, all employees of a municipality engaged in the
53 operation of any property or properties, except at an executive capaci-
54 ty, at the time such property or properties shall have been acquired by
55 the authority pursuant to the provisions of this title, shall become
56 employees of the authority.

1 § 1092-w. Severability. If any section, clause or provision in this
2 title shall be held by a competent court to be unconstitutional or inef-
3 fective in whole or in part, to the extent that it is not unconstitu-
4 tional or ineffective it shall be valid and effective, and no other
5 section, clause or provision shall on account thereof be deemed invalid
6 or ineffective. Insofar as the provisions of this title are inconsistent
7 with the provisions of any other act, general or special, or of any
8 local law of any city, the provisions of this title shall be control-
9 ling. Nothing contained in this title shall be held to alter or abridge
10 the powers and duties of the department of health or of the department
11 of environmental conservation over water supply matters.

12 § 7. Section 239-bb of the general municipal law is amended by adding
13 a new subdivision 12 to read as follows:

14 12. Notwithstanding any other provision of law to the contrary, the
15 entity created pursuant to title four-A of article five of the public
16 authorities law shall be eligible for four million two hundred ten thou-
17 sand five hundred twenty-six dollars in each state fiscal year beginning
18 with state fiscal year two thousand twenty-one - two thousand twenty-
19 two; provided however, that such monies shall be derived from the appro-
20 priation dedicated to the matching funds program pursuant to subdivision
21 eight of this section; and provided further, that such funding for such
22 entity shall not be subject to the requirements of subdivision eight of
23 this section related to savings.

24 § 8. This act shall take effect immediately.