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:

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

§ 2. The taxable assessed valuation of any water system special franchise property, as defined in subdivision 17 of section 102 of the real property tax law, that is used for conducting water, including, but not limited to, such replacement property in form, function and utility of the property being replaced, shall be subject to the following limitations:

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

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

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

Provided, however, that notwithstanding any provision of the real property tax law to the contrary, the commissioner of taxation and 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.
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1092-n. State, county and municipalities not liable on bonds.
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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

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

2. 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.

3. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county of Nassau and the state of New York, 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.

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

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

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

(a) sue and be sued;

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

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

(d) (i) purchase, in the name of the authority, 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, situated wholly within the county 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 as a means of so acquiring for such purposes, and subject to the approval of the public service commission, the authority may purchase all of the stock of any existing privately owned water corporation or company, and thereafter, within a reasonable time, such water corporation or company 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;

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

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

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

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

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

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

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

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

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

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

§ 1092-f. Additional powers of the county of Nassau and towns and villages within Nassau county. 1. (a) In addition to any powers granted by any general or special law, the county legislature, acting on behalf of the county, and any town board or village board of trustees of any town or village within the county of Nassau, acting on behalf of such town or village, either separately or pursuant to agreements among themselves, may, from time to time, appropriate by resolution sums of money to defray costs and expenses of the authority associated with the extension of authority mains to areas in the county within which the county department of health services has documented that private wells providing water to home owners have become contaminated with pollutants in concentrations greater than recommended by any drinking water guidelines or standard established by the federal government or this state, and may enter into a contract or contracts with the authority to so extend authority mains.

(b) In areas of documented groundwater contamination where potable water may be more economically supplied by a municipal water authority, special district or improvement area established to provide a water improvement, or by a village, than by the authority, the county legislature and any town board or village board of trustees within Nassau county may appropriate sums of money to said municipal water authority, special district or improvement area or village, and enter into a contract or contracts, in accordance with this subdivision.

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

3. Appropriations of money by the county legislature and any town board or village board of trustees in the county of Nassau to the authority or to a municipal water authority, special district or improvement area or village within Nassau county, and any contract or contracts entered into with said authority or municipal water authority, special district or improvement area or village prior to the effective date of this section that are consistent with the authorization in subdivision one of this section are hereby legalized, validated, ratified and confirmed.

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

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

§ 1092-h. Charges by authority; method of collection. All rates, fees and other charges for the use or availability of the facilities or services or commodities provided or made available by the authority and billed directly by the authority to the user or service recipient pursuant to a classification of person adopted by the authority as herein provided shall be a lien upon the real property upon which, or in connection with which, services are provided or are made available, as and from the first date fixed for a payment of such rates, fees and other charges. Any such lien shall take precedence over all other liens, or encumbrances, except taxes or assessments. The chief financial officer of the authority shall prepare and transmit to the receiver of taxes, on or before the first day of November in each year, a list of those properties using such facilities or for which such facilities, services or commodities were provided or made available and from which the payment of rates, fees and other charges are in arrears for a period of ninety days or more after the last day fixed for payment of such rates, fees and other charges without penalty. The list shall contain a brief description of such properties, the names of the persons or corporations liable to pay for the same, and the amount chargeable to each, including penalties and interest, as applicable, computed to December thirty-first of that year. The county shall levy such sums against the properties liable and shall state the amount thereof in a separate column in the annual tax rolls of the county under the heading "water charge". Such amounts, excluding penalties and interest imposed by the county when collected by the receivers of taxes or county treasurer, shall be paid over to the chief financial officer of the authority. County imposed penalties and interest shall be retained by the county treasurer or receiver of taxes which shall become a part of the general funds of the county. All of the provisions of the real property tax law of the state or the nassau county administrative code, as applicable, governing enforcement and collection of unpaid taxes or assessments for special improvements not inconsistent herewith shall apply to the collection of such unpaid rates, rentals, fees and other charges.

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

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

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

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

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

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

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

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

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

(d) limitations on the issuance of additional bonds;

(e) the application of funds and the safeguarding of funds on hand or on deposit, including the requiring of the giving of security for deposit of such funds by depository banks or trust companies. Unless otherwise provided in said resolution, all deposits of funds of the authority shall be secured in the manner provided by law for securing deposits of

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

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

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

7. Except as may be otherwise expressly provided by the authority, every issue of bonds by the authority shall be general obligations payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues.

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

9. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected from the time when such pledge is made or other security interest attaches without any physical delivery of the collateral or further act, and the lien of any such pledge or other security interest shall be valid, binding and perfected against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether or not such parties have notice thereof. No instrument by which such a pledge or security interest is created nor any financing statement need be recorded or filed.

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

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

§ 1092-l. Bonds as legal investments. The bonds herein authorized are hereby made securities in which all public officers and bodies of this state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and all other persons whomsoever, except as hereinafter provided, who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them, provided that, notwithstanding the provisions of any other general or special law to the contrary, such bonds shall not be eligible for the investment of funds including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees and other individual fiduciaries. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may hereafter be authorized.

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

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

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

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

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

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

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

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

§ 1092-s. Contracts. All contracts, or orders, for work, material or supplies performed or furnished in connection with construction shall be awarded by the authority pursuant to resolution. Such contracts, or orders, for work, material or supplies needed for any particular purpose involving an expenditure of more than five thousand dollars shall be awarded only after inviting sealed bids or proposals therefor. The notice inviting sealed proposals shall be published at least once in a newspaper or trade paper selected by the authority for such purpose, such publication to be at least ten days before the date for the receipt of bids. If the authority shall not deem it for the interest of the authority to reject all bids, it shall award the contract to the lowest bidder, unless the authority shall determine that it is for the public interest that a bid other than the lowest bid should be accepted. In any contract for work, material or supplies, there shall be inserted in the discretion of the authority a provision that additional work may be done or material or supplies furnished for the purpose of completing such contract at an expense not exceeding fifteen per centum of the amount of such contract if such additional work, material or supplies shall be ordered by the authority. The bidder whose bid is accepted shall give security for the faithful performance of the contract, and such other security as the authority may require, and may be required to maintain for such period as shall be stipulated any construction done under the contract, all in the manner prescribed and required by the authority; and the sufficiency of such security shall, in addition to the justification and acknowledgment, be approved by the authority. All bids or proposals shall be publicly opened by the authority or its duly authorized agent. If the bidder whose bid has been accepted after advertising shall neglect or refuse to accept the contract within five days after written notice that the same has been awarded to him on his bid or proposal, or, if he accepts but does not execute the contract and give proper security, the authority shall have the right to declare such bidder's deposit forfeited, and thereupon it shall be readvertised and relet as above provided. In case any work shall be abandoned by any contractor, the authority may, if the best interest of the authority be thereby served, adopt on behalf of the authority any or all subcontracts made by such contractor for such work and all such subcontractors shall be bound by such adoption if made; and the authority shall, in the manner provided herein, readvertise and relet the work specified in the original contract exclusive of so much thereof as shall be provided for in the subcontract or subcontracts so adopted. No bid shall be accepted from or any contracts awarded to any person or corporation who is in arrears to the authority, or the county of Nassau upon any debt or contract, or is a defaulter as surety or otherwise upon any obligation of the authority, or the county. Every contract involving an expenditure of more than five thousand dollars when made and entered into as herein provided for shall be executed in duplicate, one copy of which shall be held by the authority and one copy of which shall be delivered to the contractor. Upon the adoption of a resolution by a vote of two-

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

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

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

§ 1092-v. Transfer of officers and employees. 1. Any public officer or employee under civil service, selected by the authority may, with the consent of the commission, board, department or municipality by which he or she has been employed, be transferred to the authority and shall be eligible for such transfer and appointment without examination to comparable offices, positions and employment under the authority. The salary or compensation of any such officer or employee shall after such transfer be paid by the authority, but notwithstanding the provisions of this title, any such officers or employees so transferred to the authority, pursuant to the provisions of this section, who are members of or beneficiaries under any existing pension or retirement system, shall continue to have all rights, privileges, obligations and status with respect to such fund system or systems as are now prescribed by law, but during the period of their employment by the authority, all contributions to any pension or retirement fund or system to be paid by the employer on account of such officers and employees, shall be paid by the authority; and all such officers and employees who have been appointed to positions under the rules and classifications of the civil service commission shall have the same status with respect thereto after transfer to the authority as they had under their original appointments. The appointment and promotion of all employees of the authority shall be made in accordance with the provisions of the civil service law and such rules as the civil service commission may adopt and make applicable to the authority.

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

§ 1092-w. Severability. If any section, clause or provision in this title shall be held by a competent court to be unconstitutional or ineffective in whole or in part, to the extent that it is not unconstitutional or ineffective it shall be valid and effective, and no other section, clause or provision shall on account thereof be deemed invalid or ineffective. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any local law of any city, the provisions of this title shall be controlling. Nothing contained in this title shall be held to alter or abridge the powers and duties of the department of health or of the department of environmental conservation over water supply matters.

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

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

§ 8. This act shall take effect immediately.