STATE OF NEW YORK

9214

IN ASSEMBLY

February 9, 2022

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

AN ACT to amend the canal law and the state finance law, in relation to providing for the transfer of powers and duties relating to canals and canal lands from the power authority of the state of New York to the canal recreationway commission; and to repeal certain provisions of the public authorities law relating thereto

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

Section 1. The article heading of article 1-A of the canal law, as amended by section 15 of part TT of chapter 54 of the laws of 2016, is amended to read as follows:

TRANSFER TO [~~POWER AUTHORITY OF THE STATE OF NEW YORK~~] CANAL RECREATIONWAY COMMISSION

§ 2. Section 5 of the canal law, as amended by section 16 of part TT of chapter 54 of the laws of 2016, is amended to read as follows:

§ 5. Transfer of powers and duties relating to canals and canal lands to the [~~power authority of the state of New York~~] canal recreationway commission. The powers and duties of the [~~thruway~~] authority relating to the New York state canal system as set forth in articles one through and including fourteen, except article seven, of this chapter, and except properties in use on the effective date of this article in support of highway maintenance, equipment management and traffic signal operations of the department of transportation, heretofore transferred by the commissioner of transportation to the thruway authority, and subsequently the authority, are hereby transferred to and merged with the [~~authority~~] commission, to be exercised by the [~~authority~~] commission directly [~~or through the canal corporation~~] on behalf of the people of the state of New York. In addition, the commissioner of transportation and the chair of the authority or his or her designee may, in their discretion, enter into an agreement or agreements transferring the powers and duties of the commissioner of transportation relating to any or all of the bridges and highways as set forth in article seven of this chapter, to be exercised by the [~~authority directly or through the canal corpo-~~

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

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~~ration~~] commission on behalf of the people of the state of New York, and, as determined to be feasible and advisable by the [~~authority's trustees~~] members of the commission, shall enter into an agreement or agreements [~~directly or through the canal corporation~~] for the financing, construction, reconstruction or improvement of lift and movable bridges on the canal system. [~~Such powers shall be in addition to other powers enumerated in title one of article five of the public authorities law. All of the provisions of title one of article five of such law which are not inconsistent with this chapter shall apply to the actions and duties of the authority pursuant to this chapter.~~] The [~~authority~~] commission shall be deemed to be the state in exercising the powers and duties transferred pursuant to this section but for no other purposes.

§ 3. Sections 1005-b, 1005-c and 1005-d of the public authorities law are REPEALED.

§ 4. Subdivisions 2 and 5 of section 92-u of the state finance law, as amended by section 19 of part TT of chapter 54 of the laws of 2016, are amended to read as follows:

2. Such fund shall consist of a deposit into the fund on January first, two thousand twenty-three by the New York power authority of an amount equal to all its expenses incurred in two thousand nineteen related to its obligations regarding New York state's canal system, including all operational, maintenance, capital, and economic development monies expended or obligated, and on each January first thereafter until January first, two thousand twenty-eight, at which time an amount equal to eighty percent of all its expenses incurred in two thousand nineteen related to its obligations regarding New York state's canal system shall be deposited, after which such deposit will decrease by ten percent each January first until the amount which shall be deposited into the fund by the power authority on January first, two thousand thirty-six shall be zero dollars, all revenues received from the operation of the New York state canal system as defined in [~~section three hundred fifty-one of the public authorities law and~~] section two of the canal law, including payments on leases for use of canal lands, terminals and terminal lands, tolls received for lock and lift bridge passage, payments for hydroelectric easements and sales, for purchase of other abandoned canal lands, payments for any permits and leases for use of the water and lands of the system and payments for use of dry docks and other moneys made available to the fund from any other source other than a grant, loan or other inter-corporate transfer of funds of the power authority of the state of New York, and any income earned by, or incremental to, the fund due to investment thereof, or any repayment of any moneys advanced by the fund.

5. Moneys of the fund, following appropriation by the legislature, shall be available to the [~~power authority of the state of~~] New York state canal recreationway commission and shall be expended [~~by such authority or the canal corporation~~] only for the maintenance, construction, reconstruction, development or promotion of the canal system.

In addition, moneys of the fund may be used for the purposes of interpretive signage and promotion for appropriate historically significant Erie canal lands and related sites or for other historic preservation initiatives deemed appropriate by the commission. Moneys shall be paid out of the fund jointly by the state comptroller [~~on certificates issued by the director of the budget~~] and the commission.

§ 5. The canal law is amended by adding a new section 138-d to read as follows:

§ 138-d. Canal recreationway commission; additional powers. 1. The public benefit corporation known as the "New York state canal corporation" (hereinafter referred to as the "canal corporation") created pursuant to chapter seven hundred sixty-six of the laws of nineteen hundred ninety-two and continued and reconstituted as a subsidiary corporation of the power authority of the state of New York pursuant to subdivision one of former section one thousand five-b of the public authorities law is hereby discontinued with its responsibilities, mission, assets, debts, civil service personnel, contracts, and obligations transferred intact to the canal recreationway commission (hereinafter referred to as the "commission") created pursuant to section one hundred thirty-eight-a of this article.

2. In addition to the powers and duties enumerated in section one hundred thirty-eight-b of this article, the commission shall have the power to operate, maintain, construct, reconstruct, improve, develop, finance, and promote all of the canals, canal lands, feeder canals, reservoirs, canal terminals, canal terminal lands and other property under the jurisdiction of the canal corporation pursuant to article one-A of the canal law (hereinafter referred to as the "canal system"). Reference in any provision of law, general, special or local, or in any rule, regulation or public document to the canal corporation or the canal corporation as a subsidiary of the New York state thruway authority or the New York power authority shall be deemed to be and construed as a reference to the commission.

3. Exclusive jurisdiction is conferred upon the court of claims to hear and determine the claims of any person against the commission (a) for its tortious acts and those of its agents, and (b) for breach of a contract, relating to construction, reconstruction, improvement, maintenance or operation, in the same manner and to the extent provided by and subject to the provisions of the court of claims act with respect to claims against the state, and to make awards and render judgments therefor. All awards and judgments arising from such claims shall be paid out of moneys of the canal development fund pursuant to section ninety-two-u of the state finance law.

4. No officer or member of the commission shall receive any additional compensation, either direct or indirect, other than reimbursement for actual and necessary expenses incurred in the performance of his or her duties, by reason of his or her serving as an employee, member or officer of the commission.

5. Any employee of the canal corporation who at the time of such transfer shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article fourteen of the civil service law shall be transferred to the commission with no break in service and with all rights and privileges intact and will continue to be represented by said employee organization. All officers and employees of the commission shall be subject to the provisions of the civil service law which shall apply to the commission and such commission shall be subject to the jurisdiction of the New York state department of civil service and the New York state civil service commission. The commission shall participate in the New York state and local employees' retirement system. Nothing contained in the chapter of the laws of two thousand twenty-two that added this section shall be construed to affect the rights and privileges of the canal corporation or any of its employees under any provisions of the civil service law or any existing or expired collective bargaining agreement in effect as of the effective date of elimination of the canal corporation and transfer

of its obligations to the commission. Any such employee who at the time of such transfer shall have been in a negotiating unit represented by an employee organization which was certified or recognized pursuant to article fourteen of the civil service law shall continue to be represented by said employee organization. There shall be no reduction of staff, loss of position, including partial displacement, such as reduction in the hours of non-overtime, wages, or employment benefits as a result of the elimination of the canal corporation and transfer of its obligations to the commission for five years following such transfer.

6. The fiscal year of the commission shall be the same as the fiscal year for New York state.

7. The commission shall have the power to:

(a) operate, maintain, construct, reconstruct, improve, develop, finance, and promote the canal system;

(b) sue and be sued;

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

(d) make and alter by-laws for its organization and internal management and make rules and regulations governing the use of its property and facilities;

(e) appoint officers and employees and fix their compensation;

(f) make and execute contracts and all other instruments necessary or convenient for the exercise of its powers and functions under this chapter;

(g) acquire, hold, and dispose of real or personal property for its corporate purposes;

(h) engage the services of private consultants on a contract basis for rendering professional and technical assistance and advice;

(i) procure insurance against any loss in connection with its activities, properties, and other assets, in such amount and from such insurers as it deems desirable;

(j) invest any funds of the canal development fund, or any other monies under its custody and control not required for immediate use or disbursement, at the discretion of the canal corporation, in obligations of the state or the United States government or obligations the principal and interest of which are guaranteed by the state or the United States government, or in any other obligations in which the comptroller of the state is authorized to invest pursuant to section ninety-eight-a of the state finance law;

(k) prepare and submit a capital program plan pursuant to section ten of the canal law;

(l) enter on any lands, waters, or premises for the purpose of making surveys;

(m) accept any gifts or any grant of funds or property from the federal government or from the state or any other federal or state public body or political subdivision or any other person and to comply with the terms and conditions thereof; and

(n) waive any fee for a work permit which it has the power to issue if in its discretion the project which is subject to a work permit would add value to canal lands without any cost to the commission or the state.

8. The commission, on or before the fifteenth day of December of each year, shall submit to the director of the budget a request for the expenditure of funds available from the New York state canal system development fund pursuant to section ninety-two-u of the state finance law or available from any other non-federal sources appropriated from the state treasury.

9. The commission may do any and all things necessary or convenient to carry out and exercise the powers given and granted by this section.

10. The commission shall prepare an implementation plan for the transfer of the canal corporation's obligations from the power authority to the commission no later than January first, two thousand twenty-three. Such implementation plan shall include a requirement that the rights and privileges of all employees under existing collective bargaining agreements shall not be adversely impacted at the time of transfer, and a report on the status of relevant collective bargaining agreements and the preservation and maintenance of economic development programs and projects funded by the power authority such as the "Reimagine our Canals" initiative.

§ 6. Subdivision 21 of section 2 of the canal law, as amended by section 14 of part TT of chapter 54 of the laws of 2016, is amended to read as follows:

21. "Corporation" and "canal corporation" shall mean the New York state canal corporation, a public benefit corporation created pursuant to chapter seven hundred sixty-six of the laws of nineteen hundred ninety-two and continued and reconstituted as a subsidiary corporation of the power authority of the state of New York pursuant to subdivision one of section one thousand five-b of the public authorities law. **Beginning on the effective date of the chapter of the laws of two thousand twenty-two that amended this subdivision, "corporation" and "canal corporation" shall mean the commission.**

§ 7. This act shall take effect immediately.