

STATE OF NEW YORK

8535

IN SENATE

March 9, 2022

Introduced by Sen. HINCHEY -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the public authorities law, in relation to establishing the New York water authority; and making an appropriation therefor

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

1 Section 1. Article 5 of the public authorities law is amended by
2 adding a new title 10-E to read as follows:

TITLE 10-E

NEW YORK WATER AUTHORITY

Section 1240. Short title.

6 1240-a. Legislative findings and declaration of policy.

7 1240-b. Definitions.

8 1240-c. New York water authority.

9 1240-d. General powers of the authority.

10 1240-e. New York water authority advisory board.

11 1240-f. Water board.

12 1240-g. Powers of the water board to operate, purchase, and
13 maintain certain water companies.

14 1240-h. Appropriations for purposes of the water board or
15 authority; transfer or acquisition of property;
16 contracts.

17 1240-i. Transfer of officers and employees.

18 1240-j. Subsidiaries.

19 1240-k. Bonds of the authority.

20 1240-l. Remedies of bondholders.

21 1240-m. Local governments, state, and water board not liable on
22 bonds or notes; authority liable.

23 1240-n. Legal investments.

24 1240-o. Moneys of the authority.

25 1240-p. Agreement of the state.

26 1240-q. Exemption from taxes, assessments and certain fees.

27 1240-r. Payment in lieu of taxes.

28 1240-s. Repayment of state appropriations.

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

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1240-t. Audit and annual reports.

1240-u. Authority subject to open meetings law.

1240-v. Actions against the water board and authority.

1240-w. Conflicts of interest.

1240-x. Severability.

1240-y. Inconsistent provisions of other laws superseded.

§ 1240. Short title. This title shall be known and may be cited as the "New York water authority act".

§ 1240-a. Legislative findings and declaration of policy. It is hereby found that small water companies across New York state are struggling. Many are no longer financially capable of maintaining reliable, adequate, and safe water service to their customers at just, reasonable, and affordable rates. As a result, the state needs to step in and help take over ownership of small water companies and assist in repairing the infrastructure necessary to improve water quality, quantity, safety, and compliance with state and federal law, and service to customers.

§ 1240-b. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" means the corporation created by section twelve hundred forty-c of this title.

2. "Board" means the water board established pursuant to section twelve hundred forty-f of this title.

3. "Bonds" means the bonds, notes, or other evidences of indebtedness issued by the authority pursuant to this title, and the provisions of this title relating to bonds and bondholders shall apply with equal force and effect to notes and noteholders, respectively, unless the context otherwise clearly requires.

4. "Comptroller" means the comptroller of the state of New York.

5. "Construction" or "constructed" means the acquisition, erection, building, alteration, improvement, increase, enlargement, extension, reconstruction, renovation or rehabilitation of: the water facilities and their associated transmission and distribution systems; the wastewater facilities and their associated interceptor and collection systems, including treatment facilities and pumping stations; or storm water facilities including catch basins, sewers, drainage pipes, treatment facilities and all appurtenances to such water, wastewater, and storm water facilities; the inspection and supervision thereof; and the environmental, engineering, architectural, legal, fiscal, and economic investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto and claims arising therefrom.

6. "Cost" as applied to any project, includes the cost of construction, the cost of the acquisition of all property, including real property and other property, both real, personal and mixed, improved and unimproved, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated, the cost of all system facilities, machinery, apparatus and equipment, financing charges, interest prior to, during and after construction to the extent not paid or provided for from revenues or other sources, the cost of any environmental, engineering and architectural investigations, surveys, plans and specifications, the cost of consultant and legal services, the cost of any guarantee or bond insurance or any other credit support devices and the cost of other expenses necessary, reasonably related or incidental to the construction of any such project and the financing of the construction thereof, including

1 the amount authorized in the resolution of the authority providing for
2 the issuance of bonds to be paid into any reserve or other special fund
3 from the proceeds of such bonds, and the financing of the placing of any
4 project in operation, including the reimbursement to a county, city or
5 other municipality, state agency, the state, the United States govern-
6 ment, or any other person for expenditures that would be costs of any
7 project hereunder had they been made directly by the authority or the
8 water board.

9 7. "Executive director" means the executive director or chief execu-
10 tive officer of the water board, or any other person duly appointed or
11 delegated to perform such duties by the governing body of the water
12 board.

13 8. "Facilities" means any of the properties of the authority or the
14 water board or any other real property, personal or mixed property
15 controlled, leased, or operated by the authority or the water board
16 which is used or intended to be used in the system or in furtherance of
17 their respective corporate purposes.

18 9. "Governing body" means the members of the authority or the water
19 board, as the case may be, constituting and acting as the governing body
20 of the authority or the water board, as the case may be.

21 10. "Person" means any natural person, firm, trustee, executor,
22 personal representative, partnership, association, limited partnership,
23 limited liability company, limited liability partnership, joint venture
24 or corporation, or other legal entity whatsoever, exclusive of a public
25 corporation as defined pursuant to article two-A of the general
26 construction law.

27 11. "Project" means any system-related facility or properties, includ-
28 ing the acquisition, planning, development, financing or construction
29 thereof.

30 12. "Properties" means any part of the system or facility of the water
31 board, whether situated within or without the territorial limits of a
32 county, city, or other municipality within the water board's service
33 area, including the plants, works, structures, instrumentalities or part
34 thereof and appurtenances thereto, real property, or any other property
35 incidental or appurtenant to and included in such facility or facilities
36 or part thereof, and any improvements, extensions and betterments.

37 13. "Real property" means lands, structures, franchises, rights and
38 interests in land, air space, waters, land underwater, riparian rights
39 and air rights and any and all things and rights included within said
40 term and includes not only fee simple absolute, but also any and all
41 lesser interests including, but not limited to, easements, rights-of-
42 way, uses, leases, licenses and all other incorporeal hereditaments and
43 every estate, interest or right, legal or equitable, including terms for
44 years and liens thereon by way of judgments, mortgages or otherwise.

45 14. "Revenues" means all rates, fees, charges, payments and other
46 income and receipts derived from the operation of the system and the
47 facilities and properties of the water board including, without limiting
48 the generality of the foregoing, investment proceeds and proceeds of
49 insurance, condemnation, and sale or other disposition of assets,
50 together with all federal, state or municipal aid.

51 15. "Service area" means the area comprising the entirety of the
52 upstate New York region on the date on which this title becomes effec-
53 tive.

54 16. "State" means the state of New York.

1 17. "State agency" means any state office, public benefit corporation,
2 public authority, department, board, commission, bureau or division, or
3 other agency or instrumentality of the state.

4 18. "Storm water facility" means any plants, structures and other
5 property, real, personal or mixed, acquired, rehabilitated, constructed
6 or planned for the purpose of collecting, conveying, accumulating, stor-
7 ing, transmitting, draining, discharging or treating storm water,
8 including, but not limited to, odor control facilities, force mains,
9 conduits, pipelines, interceptors, mains, pumping stations, flow meters,
10 sampling stations, pumps, treatment plants and works, outfalls, contract
11 rights, easements, franchises, approaches, connections, permits, meters,
12 rights of flowage or diversion and other plants, structures, equipment,
13 vehicles, conveyances, real or personal property or rights therein and
14 appurtenances thereto necessary or useful and convenient for the
15 collection, conveyance, accumulation, storage, drainage, discharge,
16 transmission, or treatment of storm water.

17 19. "System" means the entirety of all water, wastewater, and storm
18 water facilities or properties as described herein.

19 20. "Upstate New York region" means all that area of the state exclud-
20 ing the city of New York, Long Island, and the counties of Westchester
21 and Rockland.

22 21. "User" means any person or effluent source that directly or indi-
23 rectly contributes, causes or permits the contribution of waste into or
24 through the wastewater or storm water facilities, or any person who
25 receives or uses water from the water facilities described in this
26 title.

27 22. "Waste" means any liquid, solid or gaseous substance, or combina-
28 tion thereof, that may be introduced into the wastewater or storm water
29 facilities.

30 23. "Wastewater facility" means any plants, structures and other prop-
31 erty, real, personal or mixed, acquired, rehabilitated, constructed or
32 planned for the purpose of collecting, conveying, accumulating, storing,
33 transmitting, or treating wastewater, including, but not limited to,
34 odor control facilities, force mains, conduits, pipelines, interceptors,
35 mains, pumping stations, flow meters, sampling stations, pumps, piping
36 systems, treatment plants and works, outfalls, contract rights, ease-
37 ments, franchises, approaches, connections, permits, meters, rights of
38 flowage or diversion and other plants, structures, equipment, vehicles,
39 conveyances, real or personal property or rights therein and appurte-
40 nances thereto necessary or useful and convenient for the collection,
41 conveyance, accumulation, storage, transport, treatment, disposal or
42 reuse of wastewater.

43 24. "Water board" or "the board" means the corporation created by
44 special act of the state legislature as provided in section twelve
45 hundred forty-d of this title, and any subsidiaries thereof.

46 25. "Water facility" or "water facilities" means any plants, struc-
47 tures and other property, real, personal or mixed, acquired, rehabili-
48 tated, constructed or planned for the purpose of accumulating, storing,
49 supplying, transmitting, treating or distributing water, including, but
50 not limited to, surface or groundwater reservoirs, basins, dams, canals,
51 aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors,
52 mains, pumping stations, pumps, water distribution systems, compensating
53 reservoirs, intake stations, waterworks or sources of water supply,
54 wells, purification or filtration plants or other treatment plants and
55 works, contract rights, franchises, approaches, connections, permits,
56 water meters, rights of flowage or diversion and other plants, struc-

1 tures, equipment, vehicles, conveyances, real or personal property or
2 rights therein and appurtenances thereto necessary or useful and conven-
3 ient for the accumulation, supply, transmission, storage, treatment or
4 distribution of water.

5 § 1240-c. New York water authority. 1. A public corporation to be
6 known as the "New York water authority" is hereby created for the public
7 purposes and charged with the duties and having the powers provided in
8 this title. The authority shall be a body corporate and politic consti-
9 tuting a public benefit corporation.

10 2. The governing body of the authority shall consist of a total of
11 three members, one of which is to be appointed by the governor, one to
12 be appointed by the temporary president of the senate at the recommenda-
13 tion of the senators representing portions of the upstate New York
14 region, and one to be appointed by the speaker of the assembly at the
15 recommendation of the assembly members representing portions of the
16 upstate New York region. At all times, all three members shall be resi-
17 dents of the upstate New York region. The member to be appointed by the
18 governor shall be appointed for a term of office ending on December
19 thirty-first of the third year following the year in which this title
20 shall have become a law, the member to be appointed by the temporary
21 president of the senate shall be appointed for a term ending on the
22 thirty-first day of December of the fourth year following the year in
23 which this title shall have become a law, and the member to be appointed
24 by the speaker of the assembly shall be appointed for a term ending on
25 the thirty-first day of December of the fifth year following the year in
26 which this title shall have become a law. Subsequent appointments of
27 members shall be made for a term of three years ending in each case on
28 December thirty-first of the last year of such term. All members shall
29 continue to hold office until their successors are appointed and quali-
30 fy. All members shall hold, at a minimum, a bachelor's degree from an
31 accredited college or university, with concentration or degree in one of
32 the following areas of study and at least five years of professional
33 experience therein, or without such degree, such member shall have at
34 least ten years of professional experience in one of the following
35 fields: legal, environmental, financial, management, engineering, human
36 resources, or science. Vacancies shall be filled in the manner provided
37 for original appointment. Vacancies, occurring other than by expiration
38 of term of office, shall be filled by appointment for the unexpired
39 terms. Members may be removed from office only for the same reasons and
40 in the same manner as provided by section twenty-eight hundred twenty-
41 seven of this chapter. Each member shall attend, in each fiscal year, at
42 least seventy-five percent of all meetings of the governing body. Any
43 member who ceases to be a resident of the upstate New York region shall
44 forfeit his or her membership on the governing body upon such member's
45 termination of residence in the upstate New York region, which forfei-
46 ture shall create a vacancy. The members of the authority shall receive
47 no compensation for their services but shall be reimbursed for their
48 actual, necessary expenses incurred in connection with the carrying out
49 of the purposes of this title; provided, however, that no member shall
50 be reimbursed for any expense of attending ordinary authority meetings
51 or any other expense exceeding one thousand dollars incurred with
52 respect to any individual purpose, unless the governing body at a meet-
53 ing duly called and held when all three members are present shall have
54 authorized such expenditure by such member. The powers of the authority
55 shall be vested in and be exercised by the governing body at a meeting
56 duly called and held where a quorum of at least two members are present.

1 Any one or more members of the authority may participate in a meeting of
2 such authority by means of a conference telephone, video teleconferenc-
3 ing, or similar communications equipment allowing all persons partic-
4 ipating in the meeting to hear or see and hear each other at the same
5 time. Participation by such means shall constitute presence in person at
6 a meeting. The vote of a majority of the members present at the time of
7 the vote, if a quorum is present at such time, shall be the act of the
8 authority. No action shall be taken except pursuant to the favorable
9 vote of at least two voting members. All votes shall be made in person
10 at a meeting and no vote may be made by proxy. The governing body may
11 delegate to one or more of its members, officers, or agents such powers
12 and duties as it may deem proper.

13 3. The officers of the authority shall consist of a chair, a vice-
14 chair, a treasurer, and a secretary. Such secretary or treasurer need
15 not be a member of the authority. Such officers shall be appointed by
16 the governing body and shall serve in such capacities at the pleasure of
17 the governing body. In addition to the treasurer or secretary, the
18 governing body may appoint and at pleasure remove such additional offi-
19 cers as it may determine necessary for the performance of the powers and
20 duties of the authority. The governing body may also from time to time
21 contract for expert professional services. The treasurer shall execute a
22 bond, conditioned upon the faithful performance of the duties of his or
23 her office. The amount and sufficiency of such bond shall be approved by
24 the governing body and the premium therefor shall be paid by the author-
25 ity.

26 4. Notwithstanding any inconsistent provision of any general, special
27 or local law, ordinance, resolution or charter, no officer, member or
28 employee of the state, any county, city or other municipality, or any
29 state agency, shall forfeit his or her office or employment or any bene-
30 fits provided under the retirement and social security law by reason of
31 his or her acceptance of appointment as a member, officer or agent of
32 the authority, nor shall service as such member, officer or agent be
33 deemed incompatible or in conflict with such office, membership or
34 employment.

35 5. (a) The governor or the governor's appointee shall file on or
36 before December thirty-first of the year following the year in which
37 this title shall have become a law, in the office of the secretary of
38 state, a certificate signed by the governor setting forth: (i) the name
39 of the authority; (ii) the names of the members appointed by the gover-
40 nor; and (iii) the effective date of the special act of the state legis-
41 lature creating the authority. If such certificate is not filed with the
42 secretary of state on or before such date, then the corporate existence
43 of the authority shall thereupon terminate and it shall thereupon be
44 deemed to be and shall be dissolved.

45 (b) The authority and its corporate existence shall continue until
46 terminated by law, provided, however, that no such law shall take effect
47 so long as the authority shall have bonds or other obligations outstand-
48 ing, unless adequate provision has been made for the payment or satis-
49 faction thereof, or so long as the water board shall have contractual
50 duties or obligations outstanding unless adequate provision has been
51 made for the satisfaction thereof. Upon termination of the existence of
52 the authority, all of the rights, obligations and properties of the
53 authority then remaining shall pass to and vest to the state, with the
54 state's consent, and, if the authority acquired such property from a
55 county, city or other municipality, with such county, city or munici-
56 pality's consent, unless otherwise provided in an agreement between such

1 county, city or municipality and the authority, and except as otherwise
2 may be specified by law.

3 6. It is hereby determined and declared that the authority and the
4 carrying out of its powers and duties are in all respects for the bene-
5 fit of the people of the upstate New York region and the state for the
6 improvement of their health, welfare and prosperity and that such
7 purposes are public purposes and that the authority is and shall be
8 performing an essential governmental function in the exercise of the
9 powers conferred upon it by this title.

10 7. Nothing in this title shall be construed to obligate the state in
11 any way in connection with the operations or obligations of the authori-
12 ty.

13 § 1240-d. General powers of the authority. The authority shall have
14 the power:

15 1. To sue and be sued.

16 2. To have a seal and alter the same at pleasure.

17 3. To borrow money and issue bonds or other obligations for its corpo-
18 rate purposes and to provide for the rights of the holders thereof.

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

22 5. To enter into agreements with the water board, any county, city or
23 other municipality in the state, the state, and any other person for the
24 financing by the authority of projects as provided in this title.

25 6. To acquire by purchase, gift, grant, transfer, contract or lease or
26 by condemnation pursuant to the eminent domain procedure law, lease as
27 lessee, hold, and use any property, real, personal or mixed or any
28 interest therein, as the authority may deem necessary, convenient or
29 desirable to carry out the purpose of this title, provided, however, the
30 authority shall not have the power to condemn property of the water
31 board, a county, city or other municipality, or the state.

32 7. To apply to the appropriate agencies and officials of the federal,
33 state and local governments, or any county, city or other municipality,
34 for such licenses, permits or approvals of its plans or projects as it
35 may deem necessary or advisable, and upon such terms and conditions as
36 it may deem appropriate, and to accept, in its discretion, such
37 licenses, permits or approvals as may be tendered to it by such agencies
38 and officials.

39 8. To appoint such officers and agents as may be required for the
40 performance of its duties, to fix and determine their qualifications,
41 duties and compensation, subject to the provisions of the civil service
42 law, and to retain or employ counsel, auditors, engineers, private
43 consultants and other independent contractors on a contractual or other-
44 wise for rendering management, professional or technical services and
45 advice.

46 9. To make plans and studies necessary, convenient or desirable for
47 the effectuation of the purposes and powers of the authority and to
48 prepare recommendations in regard thereto.

49 10. To make use of existing studies, surveys, plans, data and other
50 material in the possession of any state agency, any county, city or
51 other municipality, any person, or the water board in order to avoid
52 duplication of effort.

53 11. To enter upon such lands, waters or premises as in the judgment of
54 the authority shall be necessary for the purpose of making surveys,
55 soundings, borings and examinations to accomplish any purpose authorized
56 by this title, the authority being liable only for actual damage done.

12. To apply for and to accept any gifts, grants, loans of funds or property, or financial or other aid, in any form, from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof.

13. To make and amend by-laws for its organization and management and regulation of its affairs and rules and regulations governing the exercise of its powers and the fulfillment of its purposes under this title. A copy of such rules, regulations and by-laws, and all amendments thereto, duly certified by the secretary of the authority shall be filed with the secretary of the water board.

14. To enter into cooperative agreements with the state, any state agency, any county, city or other municipality, utility companies, individuals, or corporations, within or without the service area, for any lawful purposes necessary or desirable to effect the purposes of this title upon such terms and conditions as shall be determined to be reasonable.

15. With the consent of the chief executive officer of a county, city or other municipality within the service area, to use officers and employees of such county, city or municipality and to pay a proper portion of compensation or costs for the services rendered to the authority by such officers or employees.

16. To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title provided that the authority shall not have power, within a county, city or other municipality in the service area, to collect rentals, charges, rates or fees from the owners of real property, or the occupants of real property (other than the occupants of premises owned or controlled by the authority), for services or facilities furnished or supplied in connection with such real property, if such services or facilities are of a character or nature then or formerly furnished or supplied by such county, city or municipality.

§ 1240-e. New York water authority advisory board. 1. There is hereby created a New York water authority advisory board, consisting of a representative from the New York state association of counties, a representative from the New York conference of mayors, a representative from the New York state association of towns, at least one member who is a representative of a labor union, at least one member who is a civil engineer, at least one member who is a soil and water conservation professional, and at least one member who is an environmental or clean water advocate. One member shall be appointed for a term ending on December thirty-first of the first year following the year in which this title shall have become a law; three members shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become a law; and three members shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become a law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No member shall be a member of the governing body of the authority. The member whose initial term ends December thirty-first of the first year following the year in which this title shall have become a law shall be the initial chairperson of the board and the

1 members shall designate a chairperson from amongst the members upon the
2 expiration of such initial term.

3 2. The New York water authority advisory board shall meet at least
4 twice every calendar year.

5 3. No later than one year after the effective date of this title, and
6 annually thereafter, the New York water authority advisory board shall
7 submit a report on its recommendations to the water board established
8 pursuant to section twelve hundred forty-f of this title.

9 4. Members of the New York water authority advisory board shall serve
10 without compensation, but shall be reimbursed for expenses reasonably
11 incurred in the performance of their duties.

12 § 1240-f. Water board. 1. A water board, to be known as the "New York
13 water board", may be created by a special act of the state legislature
14 as a body corporate and politic, constituting a corporate municipal
15 instrumentality of the state and having the powers and duties as
16 provided in this title.

17 2. The governing body of the water board shall consist of a total of
18 five members, to be appointed and to serve as follows: one member shall
19 be appointed by the governor, two members shall be appointed by the
20 temporary president of the senate at the recommendation of the senators
21 representing portions of the upstate New York region, and two members
22 shall be appointed by the speaker of the assembly at the recommendation
23 of the assembly members representing portions of the upstate New York
24 region. The members shall be residents of the upstate New York region.
25 When a vacancy occurs, the appointment to fill such vacancy shall be an
26 upstate New York region resident. Each member shall attend, in each
27 fiscal year, at least seventy-five percent of all meetings of the
28 governing body. Failure by any party to appoint any member shall not
29 invalidate the creation or establishment of the water board and shall
30 result in the creation of a vacancy on the governing body of the water
31 board which may be filled at any time by such party. The member
32 appointed by the governor shall be appointed for a term ending on Decem-
33 ber thirty-first of the first year following the year in which this
34 title shall have become a law; one of the members appointed by the
35 temporary president of the senate shall be appointed for a term ending
36 on December thirty-first of the second year following the year in which
37 this title shall have become a law; one of the members appointed by the
38 speaker of the assembly shall be appointed for a term ending on December
39 thirty-first of the third year following the year in which this title
40 shall have become a law; the remaining member appointed by the temporary
41 president of the senate shall be appointed for a term ending on December
42 thirty-first of the fourth year following the year in which this title
43 shall have become a law; and the remaining member appointed by the
44 speaker of the assembly shall be appointed for a term ending on December
45 thirty-first of the fifth year following the year in which this title
46 shall have become a law. Subsequent appointments of members shall be
47 made for a term of three years ending in each case on December thirty-
48 first of the last year of such term. No member shall be a member of the
49 governing body of the authority. All members shall continue to hold
50 office until their successors are appointed and qualify. All members
51 shall hold, at a minimum, a bachelor's degree from an accredited college
52 or university, with a concentration or degree in one of the following
53 areas of study and at least five years of professional experience there-
54 in, or without such degree, such member shall have at least ten years of
55 professional experience in one of the following fields: legal, environ-
56 mental, financial, management, engineering, human resources, or science.

Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office only for the same reasons and in the same manner as provided by section twenty-eight hundred twenty-seven of this chapter. Any member shall forfeit his or her membership on the governing body upon such member's termination of residence in the upstate New York region, which forfeiture shall create a vacancy. The members of the water board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense of attending ordinary board meetings or any other expense exceeding one thousand dollars incurred with respect to any individual purpose, unless the governing body at a meeting duly called and held when three members are present shall have authorized such expenditure by such member. The powers of the water board shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three members are present. Any one or more members of the water board may participate in a meeting of such water board by means of a conference telephone, video teleconference, or similar communications equipment allowing all persons participating in the meeting to hear or see and hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. No action shall be taken except pursuant to the favorable vote of at least three voting members. All votes must be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The officers of the water board shall consist of a chairperson, a vice-chairperson and a treasurer, who shall be members of the water board, and a secretary, who need not be a member of the water board. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary or appropriate for the performance of the powers and duties of the water board, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office. The amount and sufficiency of such bond shall be approved by the governing body and the premium therefor shall be paid by the water board.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, a county, city or other municipality in the state, or any state agency, shall be deemed to have forfeited or shall forfeit his or her office or employment or any benefits provided under the retirement and social security law by reason of his or her acceptance of appointment as a member, officer, agent or employee of the water board, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

5. (a) The governor or his or her designee shall file on or before December thirty-first of the year following the year in which the

1 special act of the state legislature creating the water board shall have
2 become a law, in the office of the secretary of state, a certificate
3 signed by the governor setting forth: (i) the name of the water board;
4 (ii) the names of the members appointed by the governor, the temporary
5 president of the senate, and the speaker of the assembly; and (iii) the
6 effective date of the special act of the state legislature creating the
7 water board. If such certificate is not filed with the secretary of
8 state on or before such date, then the corporate existence of the water
9 board shall thereupon terminate and it shall thereupon be deemed to be
10 and shall be dissolved.

11 (b) The water board and its corporate existence shall continue until
12 terminated by law, provided, however, that no such law shall take effect
13 so long as the water board shall have contractual duties or obligations
14 outstanding unless adequate provision has been made for the satisfaction
15 thereof. Upon termination of the existence of the water board, all of
16 the rights, obligations and properties of the water board then remaining
17 shall pass to and vest to the state, with the consent of the state, and
18 if the water board acquired such property from a county, city or other
19 municipality, with the consent of such county, city or municipality,
20 unless otherwise provided in an agreement with such county, city or
21 municipality and the water board, and except as otherwise may be speci-
22 fied by law.

23 6. It is hereby determined and declared that the water board and the
24 carrying out of its powers and duties are in all respects for the bene-
25 fit of the people of the upstate New York region and the state for the
26 improvement of their health, welfare and prosperity and that such
27 purposes are public purposes and that the water board is and shall be
28 performing an essential governmental function in the exercise of the
29 powers conferred upon it by this title.

30 7. The water board shall establish and maintain its principal office
31 at which it conducts its business in the city of Albany. Notwithstanding
32 any general, special or local law or any charter provision, the city of
33 Albany may, and is hereby authorized to lease to the water board such
34 office space as the water board determines to be necessary and appropri-
35 ate for the needs of the water board, which lease shall be for such
36 consideration and shall contain such terms and conditions as the water
37 board and the city of Albany shall determine reasonable and appropriate.

38 8. The purpose of the act of the legislature establishing the water
39 board shall be, among other things, to provide for the jurisdiction,
40 control, possession, supervision and use of the system; authorization to
41 make rules and regulations in furtherance of this title; the enforcement
42 of this title, the rules, regulations, permits and orders of the water
43 board in connection with the direct or indirect use of the system facil-
44 ities by persons within the upstate New York region and any other
45 persons for whom the water board provides services including, but not
46 limited to, accepting, treating and disposing of wastewater, industrial
47 waste, and other waste, from whatever source derived; and to enable the
48 water board to comply with all applicable laws of the United States and
49 the state, and the rules, regulations, permits and orders of their regu-
50 latory agencies.

51 § 1240-g. Powers of the water board to operate, purchase, and maintain
52 certain water companies. 1. Except as otherwise limited by this title,
53 the water board shall have the power:

54 (a) To sue and be sued;

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

1 (c) To borrow money and issue negotiable or non-negotiable notes,
2 bonds, or other obligations and to provide for the rights of the holders
3 thereof;

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

7 (e) To create or acquire one or more wholly owned subsidiaries in
8 accordance with section twelve hundred forty-j of this title to carry
9 out all or any part of the purposes of this title;

10 (f) To acquire, by purchase, gift, grant, transfer, contract or lease
11 or by condemnation pursuant to the eminent domain procedure law, lease
12 as lessee, hold, and use any real or personal property or any interest
13 therein, as the board may deem necessary, convenient or desirable to
14 carry out the purpose of this title; provided, however, that the board
15 shall not acquire, condemn or otherwise receive real property of a coun-
16 ty, city or other municipality without the consent of the governing body
17 of such county, city or municipality;

18 (g) To construct, improve or rehabilitate water supply or sewerage
19 facilities required for the maintenance, development or expansion of
20 water supply sources or sewerage facilities in the service area;

21 (h) To construct, improve or rehabilitate distribution, transmission,
22 and sewerage facilities in the service area;

23 (i) To operate and manage and to contract for the operation and
24 management of facilities constructed by the board;

25 (j) To enter into contracts, and carry out the terms thereof, for the
26 wholesale provision of water produced by supply facilities constructed
27 and operated by the board, to counties, cities, other municipalities,
28 and private water companies in the service area and to carry out the
29 terms thereof, for the transmission of water from new or existing supply
30 facilities;

31 (k) To enter into contracts, with counties, cities and other munici-
32 palities for the collection, treatment and disposal of sewage in the
33 service area;

34 (l) To apply to the appropriate agencies and officials of the federal,
35 state and local governments for such licenses, permits or approvals of
36 its plans or projects as it may deem necessary or advisable, and upon
37 such terms and conditions as it may deem appropriate, to accept, in its
38 discretion, such licenses, permits or approvals as may be tendered to it
39 by such agencies and officials;

40 (m) To appoint such officers and employees as are required for the
41 performance of its duties, and to fix and determine their qualifica-
42 tions, duties and compensation, and to retain or employ counsel, audi-
43 tors, engineers and private consultants on a contract basis or otherwise
44 for rendering professional or technical services and advice;

45 (n) To make plans and studies necessary, convenient or desirable for
46 the effectuation of the purposes and powers of the board and to prepare
47 recommendations in regard thereto;

48 (o) To enter upon such lands, waters, or premises as in the judgment
49 of the board shall be necessary for the purpose of making surveys,
50 soundings, borings and examinations to accomplish any purpose authorized
51 by this title, the board being liable only for actual damage done;

52 (p) To apply for and to accept any gifts or grants or loans of funds
53 or property or financial or other aid in any form from the federal
54 government or any agency or instrumentality thereof, or from the state
55 or any agency or instrumentality thereof or from any other source, for
56 any or all of the purposes specified in this title, and to comply,

1 subject to the provisions of this title, with the terms and conditions
2 thereof;

3 (q) To supply and sell water for domestic, commercial and public
4 purposes at retail to individual consumers within the service area and
5 to collect, treat and discharge sewage produced for such purposes by
6 such generators;

7 (r) To purchase water in bulk from any person, private corporation,
8 county, city or other municipality when necessary or convenient for the
9 operation of such water system;

10 (s) To produce, develop, distribute and sell water or water services
11 within or without the territorial limits of the service area; and to
12 purchase water from any county, city or other municipality, town water
13 district, person, association or corporation; provided, however, that
14 water may be sold at retail to individual consumers only within the
15 service area and further provided that in exercising the powers granted
16 by this title, the board shall not sell water in any area which is
17 served by a water system owned or operated by a county, city or other
18 municipality or special improvement district unless the governing body
19 of such county, city or other municipality or district shall adopt a
20 resolution requesting the board to sell water in such served areas;

21 (t) To make bylaws for the management and regulation of its affairs
22 and subject to agreements with bondholders, rules for the sale of water
23 or collection of sewage and the collection of rents and charges there-
24 for. A copy of such rules and bylaws, and all amendments thereto, duly
25 certified by the secretary of the board shall be filed in the secretary
26 of the state;

27 (u) To fix rates and collect charges for the use of the facilities of,
28 or services rendered by, or any commodities furnished by the board such
29 as to provide revenues sufficient at all times to pay, as the same shall
30 become due, the principal and interest on the bonds, notes or other
31 obligations of the board together with the maintenance of proper
32 reserves therefor, in addition to paying as the same shall become due,
33 the expense of operating and maintaining the properties of the board
34 together with proper reserves for maintenance, contingencies and all
35 other obligations and indebtedness of the board;

36 (v) To enter into cooperative agreements with other authorities, coun-
37 ties, cities and other municipalities, water districts, utility compa-
38 nies, individuals, firms or corporations, within or without the territo-
39 rial limits of the service area for the interconnection of facilities,
40 the exchange or interchange of services and commodities, and within the
41 territorial limits of the service area to enter into a contract for the
42 construction and operation and maintenance of a water supply and
43 distribution or sewerage system by the board for any county, city or
44 other municipality having power to construct and develop a water supply
45 and distribution or sewerage system, upon such terms and conditions as
46 shall be determined to be reasonable including, but not limited to the
47 reimbursement of all costs of such construction, or for any other lawful
48 purposes necessary or desirable to effect the purposes of this title;

49 (w) To provide for the discontinuance or disconnection of the supply
50 of water or the provision of sewerage service, or both, as the case may
51 be, for non payment of fees, rates, rents or other charges therefor
52 imposed by the board, provided such discontinuance or disconnection of
53 any supply of water or the provision of sewerage service, or both, as
54 the case may be, shall not be carried out except in the manner and upon
55 the notice as is required of a waterworks corporation pursuant to subdi-

visions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law; and

(x) To do all things necessary, convenient or desirable to carry out its purposes and for the exercise of the powers granted in this title.

2. Where the board has entered into an agreement with a county, city or other municipality within the service area to produce, develop, distribute, sell or otherwise manage water and/or wastewater services pursuant to this title, the board shall consult with such county, city or other municipality's county executive, mayor, chief officer or other municipal head of government, or such individual's designee, in establishing the terms of such water and/or wastewater services for such county, city or other municipality. The board shall not be authorized to approve any measure regarding such water and/or wastewater services for to such county, city or other municipality without the approval of such county executive, mayor, chief officer, or other municipal head of government.

§ 1240-h. Appropriations for purposes of the water board or authority; transfer or acquisition of property; contracts. 1. In addition to any powers granted to it by law, a county, city, or other municipality in the service area may, from time to time, appropriate by resolution sums of money for purposes of either the water board or the authority to defray project costs or any other costs and expenses of either the water board or the authority or to pay amounts payable or anticipated to be payable to either the water board or the authority pursuant to any agreement authorized by this title. Subject to the rights of bondholders, a county, city, or other municipality may determine if the moneys so appropriated shall be subject to repayment by either the water board or the authority and, in such event, the manner and time or times for such repayment.

2. A county, city, other municipality, or state agency may give, grant, sell, convey, loan or license the use of or lease to either the water board or the authority any properties which are useful to either the water board or the authority in order to carry out their powers under this title. Any such transfer of property shall be for such term and upon such terms and conditions, subject to the rights of the holders of any bonds, as the water board, the authority, such state agency and such county, city, or municipality may agree, including provision for the authority to assume the primary responsibility for the payment of any bonds or notes issued by such county, city, municipality, or such state agency for such properties.

3. Notwithstanding the provisions of any other law, general, special or local to the contrary, real property acquired by either the water board, the authority or any county, city, or municipality from the state or a state agency may be used for any corporate purpose of either the water board or the authority.

4. Any county, city, other municipality, state agency, the water board and/or the authority shall have the power to contract, from time to time, between or among themselves, or with any other person, in relation to the purchase, sale, production, accumulation, supply, transmission, or treatment of water, or the provision of wastewater or storm water services and/or the construction, use, sale and/or leasing, of any system facility of the water board, which contracts may include any or all of the following provisions: (a) requiring the purchase by any county, city, or other municipality of specified amounts of water, wastewater, or storm water services; (b) requiring the use by any county, city, or other municipality of a system facility; (c) limiting the right,

1 including a prohibition, of any county, city, or other municipality to
2 construct a facility which will serve the same, or substantially the
3 same, function as a system facility constructed or to be constructed by
4 the water board; (d) requiring the water board to reserve capacity in
5 any system facility to assure the availability to any county, city, or
6 other municipality of a specified amount of use of any system facility;
7 (e) providing for specified minimum periodic payments whether or not
8 water, wastewater or storm water services are actually taken and used,
9 or such system facility is actually used, subject to such limitations,
10 exceptions and provisions therein; and (f) requiring any county, city,
11 or other municipality to pay to the water board such amounts as shall be
12 necessary to assure the continued operation of the water board. All such
13 payments shall be determined and paid in such manner and at such times
14 as may be provided in such contracts.

15 5. Any agreement for the supply of water services, wastewater services
16 or storm water services between a county, city, other municipality or an
17 agency thereof and any state agency, or any administrative determi-
18 nation by a state agency, or any other arrangement in this regard, in
19 effect at the time the water board shall be established, shall remain in
20 full force and effect and be binding upon the water board as if it were
21 a party to such agreement, determination or other arrangement.

22 § 1240-i. Transfer of officers and employees. 1. In accordance with
23 the provisions of section seventy of the civil service law, any officer
24 or employee of a county, city, or other municipality that currently
25 works in the system, may, at the request of the water board and with the
26 consent of such county, city, or municipality and the water board, be
27 transferred to the water board and shall be eligible for such transfer
28 and appointment, without further examination, to applicable offices,
29 positions and employment under the water board. Any such officers or
30 employees so transferred to the water board pursuant to this section,
31 who are members of or benefit under any existing pension or retirement
32 fund or system, shall continue to have all rights, privileges, obli-
33 gations and status with respect to such fund or system as are now
34 prescribed by law, but during the period of their employment by the
35 water board, all contributions to such funds or systems to be paid by
36 the employer on account of such officers or employees shall be paid by
37 the water board.

38 2. A transferred employee shall remain in the same collective bargain-
39 ing unit as was the case prior to such employee's transfer; successor
40 employees to the positions held by such transferred employees shall,
41 consistent with the provisions of article fourteen of the civil service
42 law, be included in the same unit as their predecessors. Employees serv-
43 ing in positions in newly created titles shall be assigned to the same
44 collective bargaining unit as they would have been assigned to such unit
45 were such titles created prior to the establishment of the water board.
46 Nothing contained in this title shall be construed (a) to diminish the
47 rights of employees pursuant to a collective bargaining agreement or (b)
48 to affect existing law with respect to an application to the public
49 employment relations board seeking a designation by the public employ-
50 ment relations board that certain persons are managerial or confiden-
51 tial.

52 § 1240-j. Subsidiaries. 1. The water board shall have the right to
53 exercise and perform all or part of its powers and functions through one
54 or more wholly owned subsidiaries by acquiring the voting shares thereof
55 or by resolution of the water board directing any of its trustees, offi-
56 cers or employees to organize a subsidiary corporation pursuant to the

1 business corporation law, the not-for-profit corporation law or the
2 transportation corporations law. Such resolution shall prescribe the
3 purpose for which such subsidiary corporation is to be formed.

4 2. The water board may transfer to any subsidiary corporation any
5 moneys, property (real, personal or mixed) or facilities in order to
6 carry out the purposes of this title. Each such subsidiary corporation
7 shall have all the privileges, immunities, tax exemptions and other
8 exemptions of the water board to the extent the same are not inconsis-
9 ent with the statute or statutes pursuant to which such subsidiary was
10 incorporated.

11 § 1240-k. Bonds of the authority. 1. The authority shall have the
12 power and is hereby authorized from time to time to issue bonds in
13 conformance with applicable provisions of the uniform commercial code in
14 such principal amounts as it may determine to be necessary to pay the
15 cost of any project or projects, or for any other corporate purpose,
16 including reasonable and incidental expenses in connection therewith.
17 The authority shall have power from time to time to refund any bonds by
18 the issuance of new bonds whether the bonds to be refunded have or have
19 not matured, and may issue bonds partly to refund bonds then outstanding
20 and partly for any other corporate purpose. Bonds issued by the authori-
21 ty may be general obligation bonds secured by the faith and credit of
22 the authority or may be special obligations payable solely out of
23 particular revenues or other moneys as may be designated in the
24 proceedings of the authority under which the bonds shall be authorized
25 to be issued, subject to any agreements entered into between the author-
26 ity and a county, city, or other municipality, and the authority, the
27 water board and a county, city, or other municipality, and subject to
28 any agreements with the holders of outstanding bonds pledging any
29 particular property, revenues or moneys.

30 2. The authority is authorized to obtain from any department or agency
31 of the United States or the state or any non-governmental insurer or
32 financial institution, any insurance, guaranty or other credit support
33 device, to the extent now or hereafter available, as to, or for the
34 payment or repayment of interest or principal, or both, or any part
35 thereof, on any bonds issued by the authority and to enter into any
36 agreement or contract with respect to any such insurance or guaranty,
37 except to the extent that the same would in any way impair or interfere
38 with the ability of the authority to perform and fulfill the terms of
39 any agreement made with the holders of bonds or notes of the authority
40 as may then exist.

41 3. Bonds shall be authorized by resolution of the authority, be in
42 such denominations, bear such date or dates and mature at such time or
43 times as such resolution may provide, except that bonds and any renewals
44 thereof shall mature within forty years of the date of their original
45 issuance and notes and any renewal thereof shall mature within five
46 years of the date of their original issuance. Such bonds shall be
47 subject to such terms of redemption, bear interest at such rate or rates
48 payable at such times, be in such form, carry such registration privi-
49 leges, be executed in such manner, be payable in such medium of payment
50 at such place or places, and be subject to such terms and conditions as
51 such resolution may provide. Bonds may be sold at public or private sale
52 for such price or prices as the authority shall determine provided that
53 no issue of bonds may be sold by the authority at private sale unless
54 such sale and the terms thereof have been approved in writing by (a) the
55 comptroller, where such sale is not to such comptroller, or (b) by the
56 state director of the budget, where such sale is to be to the comp-

1 troller. The authority may pay all expenses, premiums and commissions
2 which it may deem necessary or advantageous in connection with the issu-
3 ance and sale of bonds or authority obligations.

4 4. The authority may also enter into loan agreements, lines of credit
5 and other security agreements and obtain for or on its behalf letters of
6 credit, insurance, guaranties or other credit enhancements to the extent
7 now or hereafter available, in each case for securing its bonds or to
8 provide direct payment of any costs which the authority is authorized to
9 pay.

10 5. Any resolution or resolutions authorizing bonds or any issue of
11 bonds may contain provisions which may be a part of the contract with
12 the holders of the bonds thereby authorized as to:

13 (a) pledging all or part of the revenues, other monies or property of
14 the authority to secure the payment of the bonds, or any costs of issu-
15 ance thereof, including, but not limited to, any contracts, earnings or
16 proceeds of any grant to the authority received from any private or
17 public source subject to such agreements with bondholders as may then
18 exist;

19 (b) the setting aside of reserves and the creation of sinking funds
20 and the regulation and disposition thereof;

21 (c) limitations on the purpose to which the proceeds from the sale of
22 bonds may be applied;

23 (d) limitations on the right of the authority to restrict and regulate
24 the use of the project or part thereof in connection with which bonds
25 are issued;

26 (e) limitations on the issuance of additional bonds, the terms upon
27 which additional bonds may be issued and secured and the refunding of
28 outstanding or other bonds;

29 (f) the procedure, if any, by which the terms of any contract with
30 bondholders may be amended or abrogated, the amount of bonds the holders
31 of which must consent thereto, and the manner in which such consent may
32 be given;

33 (g) the creation of special funds into which any revenues or monies
34 may be deposited;

35 (h) the terms and provisions of any trust, mortgage, deed or indenture
36 securing the bonds under which the bond may be issued;

37 (i) vesting in a trustee or trustees such properties, rights, powers
38 and duties in trust as the authority may determine which may include any
39 or all of the rights, powers and duties of the trustees appointed by the
40 bondholders to appoint a trustee pursuant to this title or limiting or
41 abrogating the rights of the bondholders to appoint a trustee, or limit-
42 ing the rights, duties and powers of such trustee;

43 (j) defining the acts or omissions to act which may constitute a
44 default in the obligations and duties of the authority to the bondhold-
45 ers and providing for the rights and remedies of the bondholders in the
46 event of such default, including as a matter of right the appointment of
47 a receiver, provided, however, that such rights and remedies shall not
48 be inconsistent with the general laws of the state and other provisions
49 of this title;

50 (k) limitations on the power of the authority to sell or otherwise
51 dispose of any project or any part thereof;

52 (l) limitations on the amount of revenues and other monies to be
53 expended for operating, administrative or other expenses of the authori-
54 ty;

55 (m) the payment of the proceeds of bonds, revenues and other monies to
56 a trustee or other depository, and for the method of disbursement there-

1 of with such safeguards and restrictions as the authority may determine;
2 and

3 (n) any other matters of like or different character which in any way
4 affect the security or protection of the bonds or the rights and reme-
5 di- dies of bondholders.

6 6. In addition to the powers herein conferred upon the authority to
7 secure its bonds, the authority shall have power in connection with the
8 issuance of bonds to adopt resolutions and enter into such trust inden-
9 tures, agreements or other instruments as the authority may deem neces-
10 sary, convenient or desirable concerning the use or disposition of its
11 revenues or other monies or property, including the mortgaging of any
12 property and the entrusting, pledging or creation of any other security
13 interest in any such revenues, monies or property and the doing of any
14 act, including refraining from doing any act which the authority would
15 have the right to do in the absence of such resolutions, trust inden-
16 tures, agreements or other instruments. The authority shall have power
17 to enter into amendments of any such resolutions, trust indentures,
18 agreements or other instruments. The provisions of any such resolutions,
19 trust indentures, agreements or other instruments may be made a part of
20 the contract with the holders of bonds of the authority.

21 7. Any provision of the uniform commercial code to the contrary
22 notwithstanding, any pledge of or other security interest in revenues,
23 monies, accounts, contract rights, general intangibles or other personal
24 property made or created by the authority or the water board, pursuant
25 to this title, shall be valid, binding and perfected against all
26 persons, from the time when such pledge is made or other security inter-
27 est attaches without any physical delivery of the collateral or further
28 act, and the lien of any such pledge or other security interest shall be
29 valid, binding and perfected against all parties having claims of any
30 kind in tort, contract or otherwise against the authority or the water
31 board, irrespective of whether such parties have notice thereof. No
32 instrument by which such a pledge or security interest is created nor
33 any financing statement need be recorded or filed.

34 8. Whether or not the bonds are of such form and character as to be
35 negotiable instruments under the terms of the uniform commercial code,
36 the bonds are hereby made negotiable instruments within the meaning of
37 and for all the purposes of the uniform commercial code, subject only to
38 the provisions of the bonds for registration.

39 9. Neither the members of the authority nor any person executing its
40 bonds shall be liable personally on its bonds or be subject to any
41 personal liability or accountability by reason of the issuance thereof.

42 10. Subject to such agreements with bondholders as may then exist, the
43 authority shall have power out of any funds available therefor to
44 purchase bonds of the authority, which shall thereupon be cancelled, at
45 a price not exceeding (a) if the bonds are then redeemable, the redemp-
46 tion price then applicable plus accrued interest to the next interest
47 payment date, or (b) if the bonds are not then redeemable, the redemp-
48 tion price applicable on the first date after such purchase upon which
49 the bonds become subject to redemption plus accrued interest to the next
50 interest payment date. Bonds so purchased shall thereupon be cancelled.

51 § 1240-1. Remedies of bondholders. Subject to any resolution or resolu-
52 tions adopted pursuant to this title:

53 1. In the event that the authority shall default in the payment of
54 principal of or interest on any issue of bonds after the same shall
55 become due, whether at maturity or upon call for redemption, and such
56 default shall continue for a period of thirty days, or in the event that

1 the authority shall fail or refuse to comply with the provisions of this
2 title or shall default in any agreement made with the holders of any
3 issue of bonds, the holders of twenty-five percent in aggregate princi-
4 pal amount of the bonds of such issue then outstanding, by instrument or
5 instruments filed in the offices of the clerk of a county, city, or
6 other municipality, secretary of the water board and the authority and
7 proved or acknowledged in the same manner as a deed to be recorded, may
8 appoint a trustee to represent the holders of such bonds for the purpose
9 herein provided.

10 2. Such trustee may and, upon written request of the holders of twenty-
11 five percent in principal amount of such bonds outstanding, shall in
12 his, her or its own name:

13 (a) by action or proceeding in accordance with the civil practice law
14 and rules, enforce all rights of the bondholders, including the right to
15 require the authority to require the water board to collect fees, rates
16 and charges adequate to carry out any agreement as to, or pledge of,
17 such fees, rates and charges and to require the authority to carry out
18 any other agreements with the water board, the county, city or any muni-
19 cipality and/or the holders of such bonds to perform its duties under
20 this title;

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

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

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

26 (e) declare all such bonds due and payable, and if all defaults shall
27 be made good, then with the consent of the holders of twenty-five
28 percent of the principal amount of such bonds then outstanding, annul
29 such declaration and its consequences.

30 3. Such trustee shall in addition to the foregoing have and possess
31 all of the powers necessary or appropriate for the exercise of any func-
32 tions specifically set forth herein or incident to the general represen-
33 tation of bondholders in the enforcement and protection of their rights.

34 4. The supreme court shall have jurisdiction of any action or proceed-
35 ing by the trustee on behalf of such bondholders.

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

38 6. Any such trustee, whether or not the issue of bonds represented by
39 such trustee has been declared due and payable, shall be entitled as of
40 right to the appointment of a receiver of any part or parts of the prop-
41 erties the revenues of which are pledged for the security of the bonds
42 of such issue, and, subject to any pledge or agreement with holders of
43 such bonds, such receiver may enter and take possession of such part or
44 parts of the properties and shall take possession of all moneys and
45 other property derived from such part or parts of such properties and
46 proceed with any construction thereon or the acquisition of any proper-
47 ty, real or personal, in connection therewith which the authority is
48 under obligation to do, and to operate, maintain and reconstruct such
49 part or parts of the properties and collect and receive all revenues
50 thereafter arising therefrom subject to any pledge thereof or agreement
51 with bondholders relating thereto and perform the public duties and
52 carry out the agreements and obligations of the authority under the
53 direction of the court. In any suit, action or proceeding by the trus-
54 tee, the fees, counsel fees and expenses of the trustee and of the
55 receiver, if any, shall constitute taxable disbursements and all costs

1 and disbursements allowed by the court shall be a first charge on any
2 revenue derived from the properties.

3 § 1240-m. Local governments, state, and water board not liable on
4 bonds or notes; authority liable. Neither a county, city, other munici-
5 pality, the state, or the water board, other than the authority, shall
6 be liable on the bonds of the authority and such bonds shall not be a
7 debt of either the state, the water board, or a county, city, or other
8 municipality, and each such bond shall contain, on the face thereof, a
9 statement to such effect.

10 § 1240-n. Legal investments. The bonds of the authority are hereby
11 made securities in which all public officials and bodies of the state
12 and all municipalities, all insurance companies and associations and
13 other persons carrying on an insurance business, all banks, bankers,
14 trust companies, savings banks and savings associations, including
15 savings and loan associations, building and loan associations, invest-
16 ment companies and other persons carrying on a banking business, and
17 administrators, guardians, executors, trustees and other fiduciaries and
18 all other persons whatsoever, who are not or may hereafter be authorized
19 to invest in bonds or other obligations of the state, may properly and
20 legally invest funds including capital in their control or belonging to
21 them. Notwithstanding any inconsistent provision of law, the bonds are
22 also hereby made securities which may be deposited with and may be
23 received by all public officers and bodies of this state and all munici-
24 palties for any purposes for which the deposit of bonds or other obli-
25 gations of this state are now or hereafter may be authorized.

26 § 1240-o. Moneys of the authority. All moneys of the authority from
27 whatever source derived shall be paid to the treasurer of the authority
28 and shall be deposited forthwith in a bank or trust company in the state
29 designated by the governing body. The moneys in such accounts shall be
30 paid out on check of the treasurer upon requisition by the governing
31 body or of such other person or persons as the governing body may
32 authorize to make such requisitions. All deposits of such moneys shall
33 be secured by obligations of the United States or of the state of a
34 market value equal at all times to the amount on deposit and all banks
35 and trust companies are authorized to give such security for such depos-
36 its. To the extent practicable, consistent with the cash requirements of
37 the authority, all such moneys shall be deposited in interest bearing
38 accounts. The authority shall have power, notwithstanding the provisions
39 of this section, to contract with the holders of any bonds as to the
40 custody, collection, security, investment and payment of any moneys of
41 the authority or any moneys held in trust or otherwise for the payment
42 of bonds or in any way to secure bonds, and to carry out any such
43 contract notwithstanding that such contract may be inconsistent with the
44 provisions of this section. Moneys held in trust or otherwise for the
45 payment of bonds or in any way to secure bond and deposits of such
46 moneys may be secured in the same manner as moneys of the authority and
47 all banks and trust companies are authorized to give such security for
48 such deposits. Any moneys of the authority not required for immediate
49 use or disbursement may, at the discretion of the authority, be invested
50 in those obligations specified pursuant to the provisions of section
51 ninety-eight-a of the state finance law. Subject to the provisions of
52 any contract with bondholders and with the approval of the comptroller,
53 the authority shall prescribe a system of accounts.

54 § 1240-p. Agreement of the state. The state does hereby pledge to and
55 agree with the holders of any bonds issued by the authority pursuant to
56 this title and with those persons or public corporations who may enter

1 into contracts with the authority or the water board, pursuant to the
2 provisions of this title that the state will not alter, limit or impair
3 the rights hereby vested in the authority or the water board to
4 purchase, construct, own and operate, maintain, repair, improve, recon-
5 struct, renovate, rehabilitate, enlarge, increase and extend, or dispose
6 of any project, or any part or parts thereof for which bonds of the
7 authority shall have been issued, to establish and collect rates, rents,
8 fees and other charges referred to in this title, to fulfill the terms
9 of any contracts or agreements made with or for the benefit of the hold-
10 ers of bonds or with any person or public corporation with reference to
11 such project or part thereof, or in any way to impair the rights and
12 remedies of the holders of bonds, until the bonds, together with inter-
13 est thereon, including interest on any unpaid installments of interest,
14 and all costs and expenses in connection with any action or proceeding
15 by or on behalf of the holders of bonds, are fully met and discharged
16 and such contracts are fully performed on the part of the authority or
17 the water board, as the case may be. The authority is authorized to
18 include this pledge and agreement of the state in any agreement with the
19 holders of bonds.

20 § 1240-q. Exemption from taxes, assessments and certain fees. 1. It is
21 hereby determined that the creation of the authority and the water board
22 and the carrying out of their corporate purposes is in all respects for
23 the benefit of the people of the upstate New York region and is a public
24 purpose, and the authority and the water board shall be regarded as
25 performing governmental functions in the exercise of the powers
26 conferred upon each by this title, and the authority and the water board
27 shall not be required to pay any fees, taxes, special ad valorem levies
28 or assessments, whether state or local, including but not limited to
29 fees, taxes, special ad valorem levies or assessments on real property,
30 franchise taxes, sales taxes or other excise taxes, upon any property
31 owned by them or under their jurisdiction, control or supervision, or
32 upon the uses thereof, or upon their activities in the operation and
33 maintenance of their facilities or any fares, tolls, rentals, rates,
34 charges, fees, revenues or other income received by the authority or the
35 water board. The authority and the water board shall at all times be
36 exempt from any filing, mortgage recording or transfer fees or taxes in
37 relation to instruments filed, recorded or transferred by them or on
38 their behalf. The construction, use, occupation or possession of any
39 property owned by the authority or the water board, including improve-
40 ments thereon, by any person or public corporation under a lease, lease
41 and sublease or any other agreement shall not operate to abrogate or
42 limit the foregoing exemption, notwithstanding that the lessee, user,
43 occupant or person in possession shall claim ownership for federal
44 income tax purposes.

45 2. Any bonds issued pursuant to this title together with the income
46 therefrom as well as the property of the authority or the water board
47 shall at all times be exempt from taxes, except for transfer and estate
48 taxes. The state hereby covenants with the purchasers and with all
49 subsequent holders and transferees of bonds issued by the authority
50 pursuant to this title, in consideration of the acceptance of and
51 payment for the bonds, that the bonds of the authority issued pursuant
52 to this title and the income therefrom and all revenues, monies, and
53 other property pledged to secure the payment of such bonds shall at all
54 times be free from taxation, except for transfer and estate taxes.

55 3. Notwithstanding any provision in this section to the contrary, the
56 water board may pay, or may enter into agreements with a county, city,

1 or other municipality to pay, a sum or sums, annually or otherwise, or
2 to provide other considerations to such county, city, or municipality,
3 with respect to real property of the water board located within such
4 municipality and provided that any such payment or agreement to pay
5 shall be subject to approval by the authority.

6 4. The water board shall not be required to pay any taxes or other
7 governmental fees or charges, whether imposed by the state or any coun-
8 ty, city, or other municipality, including, without limitation, fran-
9 chise taxes, sales taxes or other excise taxes, or any other tax or
10 charge upon its property or activities or upon any of its revenues or
11 other income.

12 5. Notwithstanding any other provision of this section, any payment by
13 the water board in lieu of tax payments described in this section shall
14 be subordinate to any other payments required to be made to the authori-
15 ty pursuant to this title, including, without limitation, the payment of
16 sums to the authority or to any trustee representing the holders of any
17 bonds issued by the authority.

18 § 1240-r. Payment in lieu of taxes. Each year after property thereto-
19 fore owned by a county, city, or other municipality is acquired by the
20 authority or water board by any means authorized by this title and, as a
21 consequence, is removed from the tax rolls, the authority or water board
22 shall make payments in lieu of taxes to such county, city, or munici-
23 pality and any school districts therein equal to the taxes and assess-
24 ments which would have been received from year to year by each such
25 jurisdiction if such acquisition had not occurred.

26 § 1240-s. Repayment of state appropriations. All appropriations made
27 by the state to the authority shall be treated as advances by the state
28 to the authority, and shall be repaid to it without interest either out
29 of the proceeds of bonds issued by the authority pursuant to the
30 provisions of this title, or by the delivery of non-interest bearing
31 bonds of the authority to the state for all or any part of such
32 advances, or out of excess revenues of the authority, at such times and
33 on such conditions as the state and the authority mutually may agree
34 upon.

35 § 1240-t. Audit and annual reports. In conformity with the provisions
36 of section five of article ten of the constitution, the accounts of the
37 water board and of the authority shall be subject to the supervision of
38 the comptroller and an annual audit shall be performed by an independent
39 certified accountant. The water board and the authority shall annually
40 submit to the governor and comptroller and to the state legislature a
41 detailed report pursuant to the provisions of section twenty-eight
42 hundred of this chapter, and a copy of such report shall be filed with
43 the clerk of any county, city, or other municipality in the service area
44 with which the water board has agreed to produce, develop, distribute,
45 sell or otherwise manage water and/or wastewater services pursuant to
46 this title.

47 § 1240-u. Authority subject to open meetings law. The authority shall
48 be subject to the provisions of article seven of the public officers law
49 relating to the open meetings law.

50 § 1240-v. Actions against the water board and authority. 1. Except in
51 an action for wrongful death, no action or special proceeding shall be
52 prosecuted or maintained against either the water board or the authority
53 or their members, officers or employees for personal injury or damage to
54 real or personal property alleged to have been sustained by reason of
55 the negligence, tort or wrongful act of either the water board or the
56 authority or of any member, officer, agent or employee thereof, unless

1 (a) a notice of claim shall have been made and served upon the water
2 board or the authority, as the case may be, within the time limit
3 prescribed by law, (b) it shall appear by and as an allegation in the
4 complaint or moving papers that at least thirty days have elapsed since
5 the service of such notice and that adjustment or payment thereof has
6 been neglected or refused, and (c) the action or special proceeding
7 shall be commenced within one year and ninety days after the happening
8 of the event upon which the claim is based. An action against the board
9 or authority for wrongful death shall be commenced in accordance with
10 the notice of claim and time limitation provisions of title eleven of
11 article nine of this chapter.

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

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

27 4. Any action or proceeding to which the authority, water board or the
28 people of the state may be parties, in which any question arises as to
29 the validity of this title, shall be preferred over all other civil
30 causes of action or cases, except election causes of action or cases, in
31 all courts of the state and shall be heard and determined in preference
32 to all other civil business pending therein except election causes,
33 irrespective of position on the calendar. The same preference shall be
34 granted upon application of the authority or its counsel in any action
35 or proceeding questioning the validity of this title in which the
36 authority may be allowed to intervene. The venue of any such action or
37 proceeding shall be laid in the supreme court of the county in which the
38 cause of such action arose.

39 5. The rate of interest to be paid by the water board or the authority
40 upon any judgment for which it is liable, other than a judgment on bonds
41 of the authority, shall be the rate prescribed by section five thousand
42 four of the civil practice law and rules. Interest on payments of prin-
43 cipal or interest on any bonds in default shall accrue at the rate or
44 rates set forth in such bonds from the due date thereof until paid or
45 otherwise satisfied.

46 § 1240-w. Conflicts of interest. 1. If any member, officer or employee
47 of the water board or the authority shall have an interest, either
48 direct or indirect, in any contract to which the water board or the
49 authority is, or is to be, a party, such interest shall be disclosed to
50 the water board and the authority in writing. The member, officer or
51 employee having such interest shall not participate in any action by the
52 water board or the authority with respect to such contract.

53 2. No member, officer or employee shall be deemed to have such an
54 interest solely by reason of the ownership of two percent or less of the
55 securities of a corporation which is, or is to be, a party to a contract
56 with the water board or the authority, including without limitation the

1 holding company of any banking institution in which the funds of the
2 water board or the authority are, or are to be, deposited or which is,
3 or is to be, acting as trustee or paying agent under any bond or note
4 resolution, trust indenture or similar instrument to which the authority
5 is a party.

6 3. Nothing in this section shall be deemed or construed to limit the
7 right of any member, officer or employee of the authority to acquire an
8 interest in bonds or notes of the authority.

9 § 1240-x. Severability. If any clause, sentence, paragraph, section,
10 or part of this title shall be adjudged by any court of competent juris-
11 isdiction to be invalid, such judgment shall not affect, impair or invali-
12 date the remainder thereof, but shall be confined in its operation to
13 the clause, sentence, paragraph, section, or part thereof involved in
14 the controversy in which such judgment shall have been rendered.

15 § 1240-y. Inconsistent provisions of other laws superseded. Insofar as
16 the provisions of this title are inconsistent with the provisions of any
17 other act, general or special, or of any charter, local law, ordinance
18 or resolution of any municipality, the provisions of this title shall be
19 controlling. Nothing contained in this section shall be held to supple-
20 ment or otherwise expand the powers or duties of the authority or water
21 board otherwise set forth in this title. Except as specifically provided
22 for in this title, in the performance of any of its functions, powers
23 and duties, the authority and the water board shall be subject to all
24 applicable general or special laws of the state, the county charter,
25 city charter and any local law or ordinance.

26 § 2. The sum of one hundred million dollars (\$100,000,000), or so much
27 thereof as may be necessary, is hereby appropriated to the department of
28 state out of moneys in the state treasury in the general fund to the
29 credit of the New York water authority, not otherwise appropriated, and
30 made immediately available, for the purpose of carrying out the
31 provisions of this act. Such moneys shall be payable on the audit and
32 warrant of the comptroller on vouchers certified or approved by the
33 secretary of state in the manner prescribed by law.

34 § 3. This act shall take effect on the one hundred eightieth day after
35 it shall have become a law. Effective immediately, the addition, amend-
36 ment and/or repeal of any rule or regulation necessary for the implemen-
37 tation of this act on its effective date are authorized to be made and
38 completed on or before such effective date.