

STATE OF NEW YORK

7086

2021-2022 Regular Sessions

IN ASSEMBLY

April 21, 2021

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Local Governments

AN ACT to amend the public authorities law, in relation to updating certain references with respect to the Troy Industrial Development Authority, eliminating an automatic corporate termination clause when all bonds have been repaid, allowing the Troy Industrial Development Authority to deposit and manage its own funds and accounts, adding certain retail restrictions and making certain technical corrections

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

1 Section 1. Subdivision 1 of section 1951 of the public authorities
2 law, as added by chapter 759 of the laws of 1967, is amended to read as
3 follows:
4 1. The term "authority" shall mean the Troy Industrial Development
5 Authority, the corporation created by section nineteen hundred [~~two~~
6 fifty-two] of this title;
7 § 2. Section 1952 of the public authorities law, as separately amended
8 by chapters 195 and 357 of the laws of 1993, is amended to read as
9 follows:
10 § 1952. Troy industrial development authority. A board to be known as
11 the "Troy industrial development authority" is hereby created. Such
12 board shall be a body corporate and politic, constituting a public bene-
13 fit corporation and its existence shall commence upon the appointment of
14 the members as herein provided. Its members shall consist of a [~~chair-~~
15 ~~man~~] chair and eight other members, all of whom shall be appointed by
16 the [~~city manager~~] mayor of the city for a term of three years, and
17 shall include two members of the common council of the city, one repre-
18 sentative of the city school board, and one representative from each of
19 the fields of business, industry and labor. Every appointment to the
20 board shall be subject to confirmation by the common council of the
21 city. The [~~chairman~~] chair and each member shall continue to serve until

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

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1 the appointment and confirmation of his or her successor. Vacancies in
2 such board occurring otherwise than by expiration of term shall be
3 filled by the [~~city manager~~] mayor by appointment for the unexpired term
4 subject to confirmation by the common council of the city. The [~~city~~
5 ~~manager~~] mayor may remove the [~~chairman~~] chair or any member of the
6 board for inefficiency, neglect of duty or misconduct in office, after
7 giving him or her a copy of the charges against him or her and an oppor-
8 tunity of being heard in person, or by counsel, in his or her defense
9 upon not less than ten days' notice. Such removal must be approved by
10 the city council of the city. The members of the board shall be entitled
11 to no compensation for their services but shall be entitled to
12 reimbursement for their actual and necessary expenses incurred in the
13 performance of their official duties. Notwithstanding any inconsistent
14 provisions of law, general, special or local, no officer or employee of
15 the city shall be deemed to have forfeited or shall forfeit his or her
16 office or employment by reason of his or her acceptance of membership on
17 the board created by this section, provided, however, that a member who
18 holds such other public office or employment shall receive no additional
19 compensation or allowance for services rendered pursuant to this title,
20 but shall be entitled to reimbursement for his or her actual and neces-
21 sary expenses incurred in the performance of such services. The power of
22 the authority shall be vested in and exercised by a majority of the
23 members of the board. Such a board may delegate to one or more of its
24 members, or to its officers, agents and employees, such powers and
25 duties as it may deem proper. Such board and its corporate existence
26 shall continue [~~until July first, nineteen hundred ninety-eight and~~
27 ~~thereafter until all its liabilities have been met and its bonds have~~
28 ~~been paid in full or such liabilities or bonds have otherwise been~~
29 ~~discharged~~] in accordance with section nineteen hundred sixty-seven of
30 this title. Upon its ceasing to exist, all rights and properties shall
31 pass to and be vested in the city.

32 § 3. The opening paragraph of section 1953 of the public authorities
33 law, as amended by chapter 907 of the laws of 1972, is amended to read
34 as follows:

35 The purposes of the authority shall be to promote, develop, encourage
36 and assist in the acquiring, constructing, reconstructing, improving,
37 maintaining, equipping and furnishing industrial, manufacturing, ware-
38 house, [~~and~~] and commercial and research facilities including industrial
39 pollution control facilities, transportation facilities including but
40 not limited to those relating to water, highway, rail and air, in one or
41 more areas of the city, particularly but not exclusively at the site of
42 what was formerly the Troy airport including an airstrip or airport
43 located in the southern section of the city and thereby advance the job
44 opportunities, health, general prosperity and economic welfare of the
45 people of said city and to improve their standard of living; provided,
46 however, that the authority shall not undertake any project if the
47 completion thereof would result in the removal of an industrial or manu-
48 facturing plant of the project occupant from one area of the state to
49 another area of the state or in the abandonment of one or more plants or
50 facilities of the project applicant located within the state, provided,
51 however, that neither restriction shall apply if the authority shall
52 determine on the basis of the application before it that the project is
53 reasonably necessary to discourage the project occupant from removing
54 such other plant or facility to a location outside the state or is
55 reasonably necessary to preserve the competitive position of the project
56 occupant in its respective industry. Except as otherwise provided for in

1 this section, no financial assistance of the authority shall be provided
2 in respect of any project where facilities or property that are primari-
3 ly used in making retail sales to customers who personally visit such
4 facilities constitute more than one-third of the total project cost. For
5 the purposes of this article, "retail sales" shall mean: (i) sales by a
6 registered vendor under article twenty-eight of the tax law primarily
7 engaged in the retail sale of tangible personal property, as defined in
8 subparagraph (i) of paragraph four of subdivision (b) of section eleven
9 hundred one of the tax law; or (ii) sales of a service to such custom-
10 ers. Except, however, that tourism destination projects shall not be
11 prohibited by this paragraph. For the purpose of this paragraph, "tour-
12 ism destination" shall mean a location or facility which is likely to
13 attract a significant number of visitors from outside the economic
14 development region as established by section two hundred thirty of the
15 economic development law in which the project is located.

16 Notwithstanding the provisions of this section to the contrary, such
17 financial assistance may, however, be provided to a project where facil-
18 ities or property that are primarily used in making retail sales of
19 goods or services to customers who personally visit such facilities to
20 obtain such goods or services constitute more than one-third of the
21 total project cost, where: (i) the predominant purpose of the project
22 would be to make available goods or services which would not, but for
23 the project, be reasonably accessible to the residents of the city of
24 Troy because of a lack of reasonably accessible retail trade facilities
25 offering such goods or services; or (ii) the project is located in a
26 highly distressed area. With respect to projects authorized pursuant to
27 this paragraph no project shall be approved unless the authority shall
28 find after the public hearing required by section twenty-three hundred
29 seven of this chapter that undertaking the project will serve the public
30 purposes of this article by preserving permanent, private sector jobs or
31 increasing the overall number of permanent, private sector jobs in the
32 state. Where the authority makes such a finding, prior to providing
33 financial assistance to the project by the authority, the chief execu-
34 tive officer of the city of Troy shall confirm the proposed action of
35 the authority. To carry out said purposes, the authority shall have
36 power:

37 § 4. Subdivisions 4 and 7 of section 1953 of the public authorities
38 law, as added by chapter 759 of the laws of 1967, are amended to read as
39 follows:

40 4. To acquire by purchase, grant, lease, gift, condemnation, or other-
41 wise and to use, real property or rights or easements therein necessary
42 for its corporate purposes, and to sell, convey, mortgage, lease,
43 pledge, exchange or otherwise dispose of any such property in such
44 manner as the authority shall determine. With respect to real property
45 conveyed to it by the city, however, such power of disposition shall be
46 limited as hereinafter provided in section nineteen hundred [~~five~~
47 fifty-five] of this title;

48 7. To appoint officers, agents and employees, to prescribe their qual-
49 ifications and to fix their compensation and to pay the same out of
50 funds of the authority, subject, however, to the provisions of the civil
51 service law as hereinafter provided in section nineteen hundred [~~and~~
52 four] fifty-four of this title;

53 § 5. Subdivision 1 of section 1955 of the public authorities law, as
54 added by chapter 759 of the laws of 1967, is amended to read as follows:

55 1. The city may, by duly adopted resolution of the city council or by
56 instruments authorized by such resolution, convey, with or without

1 consideration, to the authority real and personal property owned by the
2 city for use by the authority as a project. In case of real property so
3 conveyed, the title thereto shall remain in the city but the authority
4 shall have the use thereof for so long as its corporate existence shall
5 continue and said real property shall be under its jurisdiction, control
6 and supervision within the ambit of section nineteen hundred [~~thirteen~~]
7 sixty-three of this title and exempt from all taxes and assessments
8 except such payments in lieu thereof as may be contained in such resol-
9 ution or instrument of conveyance.

10 § 6. Section 1956 of the public authorities law, as amended by chapter
11 907 of the laws of 1972, is amended to read as follows:

12 § 1956. Construction and purchase contracts. The provisions of law
13 relating to the requirement of public bidding with respect to the
14 construction of public facilities or projects shall not be applicable to
15 the acquisition, construction, reconstruction, improvement, maintenance,
16 equipping and furnishing of projects authorized by this [~~act~~] title.

17 § 7. Section 1957 of the public authorities law, as amended by chapter
18 907 of the laws of 1972, is amended to read as follows:

19 § 1957. Moneys of the authority. All moneys of the authority, from
20 whatever source derived, shall be paid to the [~~treasurer~~] authority's
21 appointed chief financial officer of the city as agent of the authority,
22 who shall not commingle such moneys with any other moneys. Such moneys
23 shall be deposited in a separate bank account or accounts. The moneys in
24 such accounts shall be paid out by the [~~treasurer~~] authority's appointed
25 chief financial officer on requisition of the [~~chairman~~] chair of the
26 authority or of such person as the authority may authorize to make such
27 requisitions [~~after audit by and upon the warrant of the comptroller~~].
28 All deposits of such moneys shall, if required by the [~~treasurer or the~~]
29 authority, be secured by obligations of a market value equal at all
30 times to the amount of the deposit, and all banks and trust companies
31 are authorized to give such security for such deposits. The [~~treasurer~~]
32 comptroller of the city and his or her legally authorized represen-
33 tatives are authorized and empowered from time to time to examine the
34 accounts and books of the authority, including its receipts, disburse-
35 ments, contracts, leases, sinking funds, investments and any other
36 records and papers relating to its financial standing. The authority
37 shall have power, notwithstanding the provisions of this section, to
38 contract with the holders of any of its bonds as to the custody,
39 collection, securing, investment and payment of any moneys of the
40 authority or any moneys held in trust or otherwise for the payment of
41 bonds or in any way to secure bonds, and to carry out any such contract
42 notwithstanding that such contract may be inconsistent with the previous
43 provisions of this section. Moneys held in trust or otherwise for the
44 payment of bonds or in any way to secure bonds and deposits of such
45 moneys may be secured in the same manner as moneys of the authority, and
46 all banks and trust companies are authorized to give such security for
47 such deposits. The accounts of the authority shall be subject to the
48 supervision of the state comptroller and he or she or his or her legally
49 authorized representatives are hereby authorized and empowered from time
50 to time to examine the accounts and books of the authority, including
51 its receipts, disbursements, contracts, sinking funds, investments and
52 any other matter relating to its financial standing and fiscal affairs.
53 The authority shall render a complete annual account of its proceedings
54 to the city council at its first meeting in [~~February~~] April of each and
55 every year.

1 § 8. Paragraph (i) of subdivision 3 of section 1958 of the public
2 authorities law, as added by chapter 759 of the laws of 1967, is amended
3 to read as follows:

4 (i) vesting in a trustee or trustees such property, rights, powers and
5 duties in trust as the authority may determine which may include any or
6 all the rights, powers and duties of the trustees appointed by the bond-
7 holders pursuant to section nineteen hundred [~~and fifteen hereof~~]
8 sixty-five of this title, and limiting or abrogating the right of the
9 bondholders to appoint a trustee under said section or limiting the
10 rights, duties and powers of trustee; and

11 § 9. Section 1967 of the public authorities law, as added by chapter
12 759 of the laws of 1967, is amended to read as follows:

13 § 1967. Termination of the authority. Whenever all of the bonds issued
14 by the authority shall have been redeemed or cancelled, and all
15 straight-lease transactions have been terminated, the authority shall
16 cease to exist and all rights, titles, and interest and all obligations
17 and liabilities thereof vested in or possessed by the authority shall
18 thereupon vest in and be possessed by the city of Troy.

19 § 10. This act shall take effect immediately.