

STATE OF NEW YORK

6473

2021-2022 Regular Sessions

IN SENATE

April 30, 2021

Introduced by Sens. GAUGHRAN, KAMINSKY, BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT in relation to the assessment of property owned by water-works corporations; and to amend the public authorities law and the general municipal law, in relation to creating the Nassau county water authority

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

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

3 § 2. The taxable assessed valuation of any water system special fran-
4 chise property, as defined in subdivision 17 of section 102 of the real
5 property tax law, that is used for conducting water, including, but not
6 limited to, such replacement property in form, function and utility of
7 the property being replaced, shall be subject to the following limita-
8 tions:

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

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

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

21 Provided, however, that notwithstanding any provision of the real
22 property tax law to the contrary, the commissioner of taxation and

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

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1 finance shall be authorized and directed to correct the final special
2 franchise assessments certified for final assessment rolls required by
3 law to be completed and filed in 2021 to take account of the provisions
4 of this section, without providing advance notice thereof or conducting
5 a hearing thereon. Upon receipt of the commissioner's corrected certifi-
6 cation, the assessor shall be authorized and directed to correct the
7 2021 final assessment roll accordingly. The commissioner shall determine
8 special franchise assessments in accordance with the provisions of this
9 section for final assessment rolls required by law to be completed and
10 filed after 2021.

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

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

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

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

39 Title 4-A

40 NASSAU COUNTY WATER AUTHORITY

41 Section 1092-a. Short title.

42 1092-b. Definitions.

43 1092-c. Nassau county water authority.

44 1092-d. Powers of the authority.

45 1092-e. Miscellaneous requirements.

46 1092-f. Additional powers of the county of Nassau and towns and
47 villages within Nassau county.

48 1092-g. Acquisition by eminent domain.

49 1092-h. Charges by authority; method of collection.

50 1092-i. Survey of water resources.

51 1092-j. Bonds.

52 1092-k. Notes of the authority.

53 1092-l. Bonds as legal investments.

54 1092-m. Bonds and property of the authority exempt from taxa-
55 tion.

56 1092-n. State, county and municipalities not liable on bonds.

1092-o. Agreements of the state.

1092-p. Contracts for sale of water wholesale.

1092-q. Audit of authority; annual report.

1092-r. Interest in contracts prohibited.

1092-s. Contracts.

1092-t. Actions.

1092-u. Expenses of hearing.

1092-v. Transfer of officers and employees.

1092-w. Severability.

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

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

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

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

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

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

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

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

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

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

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

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

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

36 (a) sue and be sued;

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

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

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

1 thereafter, within a reasonable time, such water corporation or company
2 shall be dissolved;

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

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

35 (iv) acquire, hold, use, lease, sell, transfer and dispose of any
36 property, real, personal or mixed, or interest therein, for its corpo-
37 rate purposes;

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

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

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

1 (h) make contracts and execute all instruments necessary or conven-
2 ient;

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

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

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

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

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

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

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

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

1 of section eighty-nine-b and section one hundred sixteen of the public
2 service law. The authority shall meter service to its customers within
3 two years of the effective date of this title.

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

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

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

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

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

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

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

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

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

1 unless the governing board thereof shall adopt a resolution requesting
2 the authority to make such acquisition.

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

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

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

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

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

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

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

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

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

54 (e) the application of funds and the safeguarding of funds on hand or
55 on deposit, including the requiring of the giving of security for depos-
56 it of such funds by depository banks or trust companies. Unless other-

1 wise provided in said resolution, all deposits of funds of the authority
2 shall be secured in the manner provided by law for securing deposits of
3 county moneys. All banks and trust companies are authorized to give
4 such security for such deposits; and

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

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

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

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

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

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

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

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

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

1 authority issued pursuant to this title and the income therefrom, and
2 all moneys, funds and revenues pledged to pay or secure the payment of
3 such bonds and notes, shall at all times be free from taxation except
4 for transfer and estate taxes.

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

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

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

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

1 and any other matters relating to its financial standing. The authority
2 shall annually submit to the governor and to the state legislature and
3 also to the legislature of Nassau county a detailed report pursuant to
4 the provisions of section twenty-eight hundred of this chapter.

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

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

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

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

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

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

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

1 the authority pursuant to the provisions of this title, shall become
2 employees of the authority.

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

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

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

26 § 8. This act shall take effect immediately.