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(Prefiled)

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Introduced by Sens. GAUGHRAN, KAMINSKY, BROOKS, COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT in relation to the assessment of property owned by water-works corporations; and to amend the public authorities 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 on assessment rolls required by law to be
8 completed, and filed on or after January 1, 2021 shall be exempt from
9 taxation as water system special franchise property as defined in subdi-
10 vision 17 of section 102 of the real property tax law.

11 § 3. The provisions of this act shall only apply to water-works corpo-
12 rations that are subject to the jurisdiction of the New York public
13 service commission and operating in a county with a population of one
14 million or more and that have a four-class property tax system.

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

17 Title 4-A

18 NASSAU COUNTY WATER AUTHORITY

19 Section 1092-a. Short title.

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

LBD03780-02-1

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24 § 1092-a. Short title. This title may be cited as the "Nassau county
25 water authority act".

26 § 1092-b. Definitions. As used or referred to in this title, unless a
27 different meaning clearly appears from the context:

28 1. The term "authority" shall mean the corporation created by section
29 ten hundred ninety-two-c of this title;

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

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

36 § 1092-c. Nassau county water authority. 1. The corporate existence of
37 the Nassau county water authority shall be a body corporate and politic,
38 constituting a public benefit corporation. It shall consist of seven
39 members all of whom shall be residents of the county of Nassau and whom
40 shall be appointed as follows: four members, including the chairman or
41 chairwoman of such authority, to be appointed by the county executive;
42 two members to be appointed by the majority leader of the county legis-
43 lature; and one member to be appointed by the minority leader of the
44 county legislature. All initial appointments of members of such authori-
45 ty shall be made by December thirty-first, two thousand twenty-one. All
46 members shall continue to hold office until their successors are
47 appointed and qualify. Vacancies, occurring otherwise than by expira-
48 tion of term of office, shall be filled by appointments made for unex-
49 pired terms. Members of the authority may be removed from office for the
50 same reasons and in the same manner as may be provided by law for the
51 removal of officers of the county. The members of the authority shall
52 receive such compensation for their services as shall be fixed as speci-
53 fied by the county legislature and be reimbursed for all expenses
54 incurred in connection with the carrying out of the purposes of this
55 title. The powers of the authority shall be vested in and be exercised
56 by the members at a meeting duly called and held and five members shall

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

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

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

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

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

31 § 1092-d. Powers of the authority. 1. Except as otherwise limited by
32 this title, the authority shall have the power to:

33 (a) sue and be sued;

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

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

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

55 (ii) condemn, in the name of the authority, except where located in
56 another county, any water supply system, water distribution system,

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

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

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

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

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

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

53 (h) make contracts and execute all instruments necessary or conven-
54 ient;

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

1 (j) appoint officers, agents and employees;

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

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

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

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

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

42 § 1092-e. Miscellaneous requirements. The authority shall not refuse
43 to sell water service to residential tenants for the sole reason that
44 the premises of such tenants receiving water service are rented. No
45 discontinuance or disconnection of any supply of water shall be carried
46 out except in the manner and upon the notice as is required of a water-
47 works corporation pursuant to subdivisions three-a, three-b and three-c
48 of section eighty-nine-b and section one hundred sixteen of the public
49 service law. The authority shall meter service to its customers within
50 two years of the effective date of this title.

51 § 1092-f. Additional powers of the county of Nassau and towns and
52 villages within Nassau county. 1. (a) In addition to any powers granted
53 by any general or special law, the county legislature, acting on behalf
54 of the county, and any town board or village board of trustees of any
55 town or village within the county of Nassau, acting on behalf of such
56 town or village, either separately or pursuant to agreements among them-

1 selves, may, from time to time, appropriate by resolution sums of money
2 to defray costs and expenses of the authority associated with the exten-
3 sion of authority mains to areas in the county within which the county
4 department of health services has documented that private wells provid-
5 ing water to home owners have become contaminated with pollutants in
6 concentrations greater than recommended by any drinking water guidelines
7 or standard established by the federal government or this state, and may
8 enter into a contract or contracts with the authority to so extend
9 authority mains.

10 (b) In areas of documented groundwater contamination where potable
11 water may be more economically supplied by a municipal water authority,
12 special district or improvement area established to provide a water
13 improvement, or by a village, than by the authority, the county legisla-
14 ture and any town board or village board of trustees within Nassau coun-
15 ty may appropriate sums of money to said municipal water authority,
16 special district or improvement area or village, and enter into a
17 contract or contracts, in accordance with this subdivision.

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

23 3. Appropriations of money by the county legislature and any town
24 board or village board of trustees in the county of Nassau to the
25 authority or to a municipal water authority, special district or
26 improvement area or village within Nassau county, and any contract or
27 contracts entered into with said authority or municipal water authority,
28 special district or improvement area or village prior to the effective
29 date of this section that are consistent with the authorization in
30 subdivision one of this section are hereby legalized, validated, rati-
31 fied and confirmed.

32 § 1092-g. Acquisition by eminent domain. Notwithstanding any provision
33 of the eminent domain procedure law to the contrary, in any proceeding
34 brought by the authority pursuant to such law, title shall vest in the
35 authority and compensation shall be paid only (i) upon a decision by the
36 supreme court that compensation for the real property so condemned shall
37 be determined solely by the income capitalization method of valuation,
38 based on the actual net income as allowed by the public service commis-
39 sion, and (ii) upon such court's determination of the amount of such
40 compensation, based upon the income capitalization method, entry of the
41 final judgment, the filing of the final decree, and the conclusion of
42 any appeal or expiration of the time to file an appeal related to the
43 condemnation proceeding. If any court shall utilize any method of
44 compensation other than the income capitalization method, or if the
45 proposed compensation is more than the rate base of the assets taken in
46 condemnation as utilized by the public service commission in setting
47 rates and as certified by the public service commission, the authority
48 may withdraw the condemnation proceeding without prejudice or costs to
49 any party.

50 § 1092-h. Charges by authority; method of collection. All rates, fees
51 and other charges for the use or availability of the facilities or
52 services or commodities provided or made available by the authority and
53 billed directly by the authority to the user or service recipient pursu-
54 ant to a classification of person adopted by the authority as herein
55 provided shall be a lien upon the real property upon which, or in
56 connection with which, services are provided or are made available, as

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

27 § 1092-i. Survey of water resources. The legislature of Nassau county
28 may, by resolution, appropriate a sum of money to defray the preliminary
29 expenses of such authority so created and may thereafter appropriate
30 such sums as may be required, for the purpose of making a survey of the
31 water resources of the said county, and the preparation of a map or plan
32 for the development thereof. The authority shall, as soon as possible,
33 make a survey of the water resources of the county, and prepare a map
34 and plan for the development of the same showing in detail the proposed
35 sources of water to be developed, and the municipalities and areas which
36 may be served thereby. Application for approval of the project shall
37 then be made to the department of environmental conservation as provided
38 by title fifteen of article fifteen of the environmental conservation
39 law. If so approved, the authority shall enter into such contracts or
40 agreements as may be necessary to carry out the plan of such develop-
41 ment. The authority may, however, acquire by purchase or condemnation
42 any existing water supply and distribution system without making such
43 survey and except after first obtaining the approval of the legislature
44 of the county; provided, however, that the authority shall not acquire
45 any existing water supply and distribution system owned by a munici-
46 pality unless the governing board thereof shall adopt a resolution
47 requesting the authority to make such acquisition.

48 § 1092-j. Bonds. 1. The authority shall have power and is hereby
49 authorized from time to time to issue its negotiable bonds in conformity
50 with applicable provisions of the uniform commercial code. Such bonds
51 shall be authorized by resolution of the authority and shall bear such
52 date or dates, mature at such time or times in not exceeding forty years
53 from their respective date or dates, subject to such option or options
54 of redemption, as may be provided in the resolution authorizing such
55 bonds, at par or at a price not exceeding one hundred five per centum of
56 their face value, together with accrued interest, bear interest at such

1 rate or rates that the cost to maturity of the money for any issue of
2 such bonds shall not exceed six per centum per annum, payable annually
3 or semi-annually, be in such denominations, and in such form, either
4 coupon or registered, and be executed in such manner, and be payable in
5 such medium of payment, at such place or places, and be subject to such
6 terms and conditions as such resolution or resolutions may provide.

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

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

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

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

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

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

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

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

43 (e) the application of funds and the safeguarding of funds on hand or
44 on deposit, including the requiring of the giving of security for depos-
45 it of such funds by depository banks or trust companies. Unless other-
46 wise provided in said resolution, all deposits of funds of the authority
47 shall be secured in the manner provided by law for securing deposits of
48 county moneys. All banks and trust companies are authorized to give
49 such security for such deposits; and

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

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

15 7. Except as may be otherwise expressly provided by the authority,
16 every issue of bonds by the authority shall be general obligations paya-
17 ble out of any moneys, earnings or revenues of the authority, subject
18 only to any agreements with the holders of particular bonds pledging any
19 particular moneys, earnings or revenues.

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

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

41 § 1092-k. Notes of the authority. The authority shall have the power
42 and is hereby authorized to issue negotiable bond anticipation notes or
43 revenue anticipation notes in conformity with applicable provisions of
44 the uniform commercial code and may renew the same from time to time but
45 the maximum maturity of any such note, including renewals thereof, shall
46 not exceed five years from the date of issue of such original note. Such
47 notes shall be paid from any moneys of the authority available therefor
48 and not otherwise pledged or from the proceeds of sale of the bonds of
49 the authority in anticipation of which they were issued, or, subject to
50 the contractual rights of the holders of any bonds or notes then
51 outstanding, from the proceeds of the sale of any other bonds of the
52 authority. The notes shall be issued in the same manner as the bonds and
53 the resolution or resolutions authorizing the same may contain any
54 provisions, conditions or limitations which the bonds or a bond resol-
55 ution of the authority may contain. Such notes may be sold at public or
56 private sale at not less than par and shall bear interest at a rate not

1 exceeding six percent per annum. The provisions of sections one thousand
2 ninety-two-l, one thousand ninety-two-m, one thousand ninety-two-n and
3 one thousand ninety-two-o of this article relating to bonds of the
4 Nassau county water authority shall apply with the same full force and
5 effect to bond anticipation notes and revenue anticipation notes of the
6 authority herein authorized to be issued.

7 § 1092-l. Bonds as legal investments. The bonds herein authorized are
8 hereby made securities in which all public officers and bodies of this
9 state and all municipalities and municipal subdivisions, all insurance
10 companies and associations and other persons carrying on an insurance
11 business, all banks, bankers, trust companies, savings banks and savings
12 associations, including savings and loan associations, building and loan
13 associations, investment companies and other persons carrying on a bank-
14 ing business, and all other persons whomsoever, except as hereinafter
15 provided, who are now or may hereafter be authorized to invest in bonds
16 or other obligations of the state, may properly and legally invest funds
17 including capital in their control or belonging to them, provided that,
18 notwithstanding the provisions of any other general or special law to
19 the contrary, such bonds shall not be eligible for the investment of
20 funds including capital, of trusts, estates or guardianships under the
21 control of individual administrators, guardians, executors, trustees and
22 other individual fiduciaries. The bonds are also hereby made securities
23 which may be deposited with and may be received by all public officers
24 and bodies of this state and all municipalities and municipal subdivi-
25 sions for any purpose for which the deposit of bonds or other obli-
26 gations of this state is now or may hereafter be authorized.

27 § 1092-m. Bonds and property of the authority exempt from taxation.
28 It is hereby determined that the creation of the authority and the
29 carrying out of its corporate purposes is in all respects for the bene-
30 fit of the people of the county, and is a public purpose, and the
31 authority shall be regarded as performing a governmental function in the
32 exercise of the powers conferred upon it by this title and shall not be
33 required to pay any taxes, special ad valorem levies or special assess-
34 ments upon any property owned by it or under its jurisdiction, control
35 or supervision or upon its activities, or any filing, recording or
36 transfer taxes in relation to instruments filed, recorded or transferred
37 by it or on its behalf. Any bonds or notes issued pursuant to this
38 title, together with the income therefrom shall be exempt from taxation,
39 except for transfer and estate taxes. The revenues, monies and other
40 properties and the activities of the authority shall be exempt from
41 taxes and governmental fees or charges, whether imposed by the state or
42 any municipality, including real estate taxes, franchise taxes or other
43 excise taxes. The state of New York covenants with the purchasers and
44 with all subsequent holders and transferees of bonds and notes issued by
45 the authority pursuant to this title, in consideration of the acceptance
46 of and payment for the bonds and notes, that the bonds and notes of the
47 authority issued pursuant to this title and the income therefrom, and
48 all moneys, funds and revenues pledged to pay or secure the payment of
49 such bonds and notes, shall at all times be free from taxation except
50 for transfer and estate taxes.

51 § 1092-n. State, county and municipalities not liable on bonds. The
52 bonds of the authority shall not be a debt of the state of New York or
53 of the county or of any municipality in the county, and neither the
54 state nor the county nor any municipality in the county shall be liable
55 thereon, nor shall they be payable out of any funds other than those of
56 the authority.

1 § 1092-o. Agreements of the state. The state of New York does pledge
2 to and agree with the holders of the bonds that the state will not limit
3 or alter the rights hereby vested in the authority to acquire,
4 construct, maintain, operate, reconstruct and improve the properties, to
5 establish and collect the revenues, rates, rentals, fees and other
6 charges referred to in this title and to fulfill the terms of any agree-
7 ments made with the holders of the bonds, or in any way impair the
8 rights and remedies of the bondholders, until the bonds, together with
9 interest thereon, interest on any unpaid installments of interest, and
10 all costs and expenses in connection with any action or proceeding by or
11 on behalf of the bondholders, are fully met and discharged.

12 § 1092-p. Contracts for sale of water wholesale. Any municipality is
13 hereby authorized to contract with the authority for the purchase of
14 water from the authority at wholesale for a period not exceeding thirty
15 years except that, in the case of a fire protection district or a fire
16 alarm district such period shall not exceed five years, and in the case
17 of a fire district, such period shall not exceed ten years. Such
18 contract shall provide that the liability of such purchaser for the
19 payment of any sums pursuant to such contract shall arise only at such
20 time as such water has been actually delivered to such purchaser. Such
21 contract shall state the rates, fees or charges to be paid for such
22 water, shall provide for the adjustment thereof either by increase or
23 decrease from time to time by mutual agreement of the parties thereto,
24 subject however to any provisions contained in any resolution of the
25 authority authorizing obligations relating to the imposition of rates,
26 fees or charges and the revision or adjustment thereof. Prior to the
27 execution of such contract the governing board of any such purchaser
28 shall call a public hearing to consider the subject matter and the
29 desirability of the execution of the proposed contract and shall publish
30 notice thereof in a newspaper of general circulation in the territorial
31 boundaries of such purchaser, at least once and not less than fifteen
32 days before the date of such public hearing. Such notice shall briefly
33 state the terms of the proposed contract, the date and place of the
34 public hearing and further state that at such time and place the govern-
35 ing board will hear all persons interested. If, after considering the
36 evidence adduced at such hearing, such governing body shall conclude
37 that the execution of such contract is in the public interest, it may
38 authorize the execution thereof by the adoption of a resolution to such
39 effect.

40 § 1092-g. Audit of authority; annual report. In conformity with the
41 provisions of section five of article ten of the constitution, the
42 accounts of the authority shall be subject to the supervision of the
43 state comptroller and such state comptroller and his legally authorized
44 representatives are hereby authorized and empowered from time to time to
45 examine the accounts and the books of the authority, including its
46 receipts, disbursements, contracts, leases, sinking funds, investments
47 and any other matters relating to its financial standing. The authority
48 shall annually submit to the governor and to the state legislature and
49 also to the legislature of Nassau county a detailed report pursuant to
50 the provisions of section twenty-eight hundred of this chapter.

51 § 1092-r. Interest in contracts prohibited. It shall be a misdemeanor
52 for any of the members of the authority, or any officer, agent, servant
53 or employee thereof, employed or appointed by them, to be in any way or
54 manner interested directly or indirectly in the furnishing of work,
55 materials, supplies or labor, or in any contract therefor which the
56 authority is empowered by this title to make.

1 § 1092-s. Contracts. All contracts, or orders, for work, material or
2 supplies performed or furnished in connection with construction shall be
3 awarded by the authority pursuant to resolution. Such contracts, or
4 orders, for work, material or supplies needed for any particular purpose
5 involving an expenditure of more than five thousand dollars shall be
6 awarded only after inviting sealed bids or proposals therefor. The
7 notice inviting sealed proposals shall be published at least once in a
8 newspaper or trade paper selected by the authority for such purpose,
9 such publication to be at least ten days before the date for the receipt
10 of bids. If the authority shall not deem it for the interest of the
11 authority to reject all bids, it shall award the contract to the lowest
12 bidder, unless the authority shall determine that it is for the public
13 interest that a bid other than the lowest bid should be accepted. In any
14 contract for work, material or supplies, there shall be inserted in the
15 discretion of the authority a provision that additional work may be done
16 or material or supplies furnished for the purpose of completing such
17 contract at an expense not exceeding fifteen per centum of the amount of
18 such contract if such additional work, material or supplies shall be
19 ordered by the authority. The bidder whose bid is accepted shall give
20 security for the faithful performance of the contract, and such other
21 security as the authority may require, and may be required to maintain
22 for such period as shall be stipulated any construction done under the
23 contract, all in the manner prescribed and required by the authority;
24 and the sufficiency of such security shall, in addition to the justi-
25 fication and acknowledgment, be approved by the authority. All bids or
26 proposals shall be publicly opened by the authority or its duly author-
27 ized agent. If the bidder whose bid has been accepted after advertising
28 shall neglect or refuse to accept the contract within five days after
29 written notice that the same has been awarded to him on his bid or
30 proposal, or, if he accepts but does not execute the contract and give
31 proper security, the authority shall have the right to declare such
32 bidder's deposit forfeited, and thereupon it shall be readvertised and
33 relet as above provided. In case any work shall be abandoned by any
34 contractor, the authority may, if the best interest of the authority be
35 thereby served, adopt on behalf of the authority any or all subcontracts
36 made by such contractor for such work and all such subcontractors shall
37 be bound by such adoption if made; and the authority shall, in the
38 manner provided herein, readvertise and relet the work specified in the
39 original contract exclusive of so much thereof as shall be provided for
40 in the subcontract or subcontracts so adopted. No bid shall be accepted
41 from or any contracts awarded to any person or corporation who is in
42 arrears to the authority, or the county of Nassau upon any debt or
43 contract, or is a defaulter as surety or otherwise upon any obligation
44 of the authority, or the county. Every contract involving an expendi-
45 ture of more than five thousand dollars when made and entered into as
46 herein provided for shall be executed in duplicate, one copy of which
47 shall be held by the authority and one copy of which shall be delivered
48 to the contractor. Upon the adoption of a resolution by a vote of two-
49 thirds of all the members of the authority stating that, for reasons of
50 efficiency or economy, there is need for standardization, purchase
51 contracts for a particular type or kind of equipment, material or
52 supplies of more than five thousand dollars may be awarded by the
53 authority to the lowest responsible bidder furnishing the required secu-
54 rity after advertisement for sealed bids therefor in the manner provided
55 in this section. Such resolution shall contain a full explanation of the
56 reasons for its adoption.

1 § 1092-t. Actions. In any case founded upon tort, a notice of claim
2 shall be required as a condition precedent to the commencement of an
3 action or special proceeding against the authority or any officer,
4 appointee or employee thereof, and the provisions of section fifty-e of
5 the general municipal law shall govern the giving of such notice.
6 Except in an action for wrongful death, an action against the authority
7 for damages for injuries to real or personal property, or for the
8 destruction thereof, or for personal injuries, alleged to have been
9 sustained, shall not be commenced more than one year and ninety days
10 after the cause of action therefor shall have accrued. An action against
11 the authority for wrongful death shall be commenced in accordance with
12 the notice of claim and time limitation provisions of title eleven of
13 article nine of this chapter.

14 § 1092-u. Expenses of hearing. The expenses of any hearing, determi-
15 nation or other action which the provisions of this title require of the
16 department of environmental conservation shall be paid by the applicant.
17 Bills for such expenses shall be certified by said department to the
18 applicant and paid by the applicant directly to the claimant within
19 thirty days of the date of such certification.

20 § 1092-v. Severability. If any section, clause or provision in this
21 title shall be held by a competent court to be unconstitutional or inef-
22 fective in whole or in part, to the extent that it is not unconstitu-
23 tional or ineffective it shall be valid and effective, and no other
24 section, clause or provision shall on account thereof be deemed invalid
25 or ineffective. Insofar as the provisions of this title are inconsistent
26 with the provisions of any other act, general or special, or of any
27 local law of any city, the provisions of this title shall be control-
28 ling. Nothing contained in this title shall be held to alter or abridge
29 the powers and duties of the department of health or of the department
30 of environmental conservation over water supply matters.

31 § 5. Any reduction in the taxable assessed value or removal of proper-
32 ty in any taxing jurisdiction resulting from section two of this act
33 shall not be reflected in any adjusted proportions or adjusted base
34 proportions established pursuant to article 18 of the real property tax
35 law or adjusted homestead and non-homestead base proportions established
36 pursuant to article 19 of the real property tax law.

37 § 6. Any tax relief realized by this act shall be used to reduce
38 current water rates and offset future water rate increases.

39 § 7. This act shall take effect immediately.