STATE OF NEW YORK

1790

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

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

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

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

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

TITLE 10-E
NEW YORK WATER AUTHORITY
Section 1240. Short title.
1240-a. Legislative findings and declaration of policy.
1240-b. Definitions.
1240-c. New York water authority.
1240-d. General powers of the authority.
1240-e. New York water authority advisory board.
1240-f. Water board.
1240-g. Powers of the water board to operate, purchase, and maintain certain water companies.
1240-h. Appropriations for purposes of the water board or authority; transfer or acquisition of property; contracts.
1240-i. Transfer of officers and employees.
1240-j. Subsidiaries.
1240-k. Bonds of the authority.
1240-l. Remedies of bondholders.
1240-m. Local governments, state, and water board not liable on bonds or notes; authority liable.
1240-n. Legal investments.
1240-o. Moneys of the authority.
1240-p. Agreement of the state.

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

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1240-q. Exemption from taxes, assessments and certain fees.
1240-r. Payment in lieu of taxes.
1240-s. Repayment of state appropriations.
1240-t. Audit and annual reports.
1240-u. Authority subject to open meetings law.
1240-v. Actions against the water board and authority.
1240-w. Conflicts of interest.
1240-x. Severability.
1240-y. Inconsistent provisions of other laws superseded.

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

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

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

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

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

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

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

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

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

ance or any other credit support devices and the cost of other expenses necessary, reasonably related or incidental to the construction of any such project and the financing of the construction thereof, including the amount authorized in the resolution of the authority providing for the issuance of bonds to be paid into any reserve or other special fund from the proceeds of such bonds, and the financing of the placing of any project in operation, including the reimbursement to a county, city or other municipality, state agency, the state, the United States government, or any other person for expenditures that would be costs of any project hereunder had they been made directly by the authority or the water board.

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

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

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

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

11. "Project" means any system-related facility or properties, including the acquisition, planning, development, financing or construction thereof.

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

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

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

15. "Service area" means the area comprising the entirety of the upstate New York region on the date on which this title becomes effective.

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

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

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

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

20. "Upstate New York region" means all that area of the state excluding the city of New York, Long Island, and the counties of Westchester and Rockland.

21. "User" means any person or effluent source that directly or indirectly contributes, causes or permits the contribution of waste into or through the wastewater or storm water facilities, or any person who receives or uses water from the water facilities described in this title.

22. "Waste" means any liquid, solid or gaseous substance, or combination thereof, that may be introduced into the wastewater or storm water facilities.

23. "Wastewater facility" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of collecting, conveying, accumulating, storing, transmitting, or treating wastewater, including, but not limited to, odor control facilities, force mains, conduits, pipelines, interceptors, mains, pumping stations, flow meters, sampling stations, pumps, piping systems, treatment plants and works, outfalls, contract rights, easements, franchises, approaches, connections, permits, meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, accumulation, storage, transport, treatment, disposal or reuse of wastewater.

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

25. "Water facility" or "water facilities" means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, storing, supplying, transmitting, treating or distributing water, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits,

water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, storage, treatment or distribution of water.

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

2. The governing body of the authority shall consist of a total of three members, one of which is to be appointed by the governor, one to be appointed by the temporary president of the senate at the recommendation of the senators representing portions of the upstate New York region, and one to be appointed by the speaker of the assembly at the recommendation of the assembly members representing portions of the upstate New York region. At all times, all three members shall be residents of the upstate New York region. The member to be appointed by the governor shall be appointed for a term of office ending on December thirty-first of the third year following the year in which this title shall have become a law, the member to be appointed by the temporary president of the senate shall be appointed for a term ending on the thirty-first day of December of the fourth year following the year in which this title shall have become a law, and the member to be appointed by the speaker of the assembly shall be appointed for a term ending on the thirty-first day of December of the fifth year following the year in which this title shall have become a law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. All members shall continue to hold office until their successors are appointed and qualify. All members shall hold, at a minimum, a bachelor's degree from an accredited college or university, with concentration or degree in one of the following areas of study and at least five years of professional experience therein, or without such degree, such member shall have at least ten years of professional experience in one of the following fields: legal, environmental, financial, management, engineering, human resources, or science. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring other than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office only for the same reasons and in the same manner as provided by section twenty-eight hundred twenty-seven of this chapter. Each member shall attend, in each fiscal year, at least seventy-five percent of all meetings of the governing body. Any member who ceases to be a resident of the upstate New York region shall forfeit his or her membership on the governing body upon such member's termination of residence in the upstate New York region, which forfeiture shall create a vacancy. The members of the authority shall receive no compensation for their services but shall be reimbursed for their actual, necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense of attending ordinary authority meetings or any other expense exceeding one thousand dollars incurred with respect to any individual purpose, unless the governing body at a meeting duly called and held when all three members are present shall have authorized such expenditure by such member. The powers of the authority shall be vested in and be exercised by the governing body at a meeting

duly called and held where a quorum of at least two members are present. Any one or more members of the authority may participate in a meeting of such authority by means of a conference telephone, video teleconferencing, or similar communications equipment allowing all persons participating in the meeting to hear or see and hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. The vote of a majority of the members present at the time of the vote, if a quorum is present at such time, shall be the act of the authority. No action shall be taken except pursuant to the favorable vote of at least two voting members. All votes shall be made in person at a meeting and no vote may be made by proxy. The governing body may delegate to one or more of its members, officers, or agents such powers and duties as it may deem proper.

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

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

5. (a) The governor or the governor's appointee shall file on or before December thirty-first of the year following the year in which this title shall have become a law, in the office of the secretary of state, a certificate signed by the governor setting forth: (i) the name of the authority; (ii) the names of the members appointed by the governor; and (iii) the effective date of the special act of the state legislature creating the authority. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the authority shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The authority and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the authority shall have bonds or other obligations outstanding, unless adequate provision has been made for the payment or satisfaction thereof, or so long as the water board shall have contractual duties or obligations outstanding unless adequate provision has been made for the satisfaction thereof. Upon termination of the existence of the authority, all of the rights, obligations and properties of the authority then remaining shall pass to and vest to the state, with the state's consent, and, if the authority acquired such property from a county, city or other municipality, with such county, city or munici-

pality's consent, unless otherwise provided in an agreement between such county, city or municipality and the authority, and except as otherwise may be specified by law.

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

7. Nothing in this title shall be construed to obligate the state in any way in connection with the operations or obligations of the authority.

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

1. To sue and be sued.

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

3. To borrow money and issue bonds or other obligations for its corporate purposes and to provide for the rights of the holders thereof.

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

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

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

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

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

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

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

11. To enter upon such lands, waters or premises as in the judgment of the authority shall be necessary for the purpose of making surveys,

soundings, borings and examinations to accomplish any purpose authorized by this title, the authority being liable only for actual damage done.

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

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

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

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

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

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

have become a law shall be the initial chairperson of the board and the members shall designate a chairperson from amongst the members upon the expiration of such initial term.

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

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

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

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

2. The governing body of the water board shall consist of a total of five members, to be appointed and to serve as follows: one member shall be appointed by the governor, two members shall be appointed by the temporary president of the senate at the recommendation of the senators representing portions of the upstate New York region, and two members shall be appointed by the speaker of the assembly at the recommendation of the assembly members representing portions of the upstate New York region. The members shall be residents of the upstate New York region. When a vacancy occurs, the appointment to fill such vacancy shall be an upstate New York region resident. Each member shall attend, in each fiscal year, at least seventy-five percent of all meetings of the governing body. Failure by any party to appoint any member shall not invalidate the creation or establishment of the water board and shall result in the creation of a vacancy on the governing body of the water board which may be filled at any time by such party. The member appointed by the governor shall be appointed for a term ending on December thirty-first of the first year following the year in which this title shall have become a law; one of the members appointed by the temporary president of the senate shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become a law; one of the members appointed by the speaker of the assembly shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become a law; the remaining member appointed by the temporary president of the senate shall be appointed for a term ending on December thirty-first of the fourth year following the year in which this title shall have become a law; and the remaining member appointed by the speaker of the assembly shall be appointed for a term ending on December thirty-first of the fifth year following the year in which this title shall have become a law. Subsequent appointments of members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No member shall be a member of the governing body of the authority. All members shall continue to hold office until their successors are appointed and qualify. All members shall hold, at a minimum, a bachelor's degree from an accredited college or university, with a concentration or degree in one of the following areas of study and at least five years of professional experience therein, or without such degree, such member shall have at least ten years of professional experience in one of the following fields: legal, environ-

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

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

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

5. (a) The governor or his or her designee shall file on or before December thirty-first of the year following the year in which the special act of the state legislature creating the water board shall have become a law, in the office of the secretary of state, a certificate signed by the governor setting forth: (i) the name of the water board; (ii) the names of the members appointed by the governor, the temporary president of the senate, and the speaker of the assembly; and (iii) the effective date of the special act of the state legislature creating the water board. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the water board shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

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

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

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

8. The purpose of the act of the legislature establishing the water board shall be, among other things, to provide for the jurisdiction, control, possession, supervision and use of the system; authorization to make rules and regulations in furtherance of this title; the enforcement of this title, the rules, regulations, permits and orders of the water board in connection with the direct or indirect use of the system facilities by persons within the upstate New York region and any other persons for whom the water board provides services including, but not limited to, accepting, treating and disposing of wastewater, industrial waste, and other waste, from whatever source derived; and to enable the water board to comply with all applicable laws of the United States and the state, and the rules, regulations, permits and orders of their regulatory agencies.

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

(a) To sue and be sued;

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

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

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

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

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

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

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

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

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

(k) To enter into contracts, with counties, cities and other municipalities for the collection, treatment and disposal of sewage in the service area;

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

(m) To appoint such officers and employees as are required for the performance of its duties, and to fix and determine their qualifications, duties and compensation, and to retain or employ counsel, auditors, engineers and private consultants on a contract basis or otherwise for rendering professional or technical services and advice;

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

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

(p) To apply for and to accept any gifts or grants or loans of funds or property or financial or other aid in any form from the federal government or any agency or instrumentality thereof, or from the state or any agency or instrumentality thereof or from any other source, for

any or all of the purposes specified in this title, and to comply, subject to the provisions of this title, with the terms and conditions thereof;

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

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

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

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

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

(v) To enter into cooperative agreements with other authorities, counties, cities and other municipalities, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the service area for the interconnection of facilities, the exchange or interchange of services and commodities, and within the territorial limits of the service area to enter into a contract for the construction and operation and maintenance of a water supply and distribution or sewerage system by the board for any county, city or other municipality having power to construct and develop a water supply and distribution or sewerage system, upon such terms and conditions as shall be determined to be reasonable including, but not limited to the reimbursement of all costs of such construction, or for any other lawful purposes necessary or desirable to effect the purposes of this title;

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

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

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

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

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

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

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

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

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

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

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

2. A transferred employee shall remain in the same collective bargaining unit as was the case prior to such employee's transfer; successor employees to the positions held by such transferred employees shall, consistent with the provisions of article fourteen of the civil service law, be included in the same unit as their predecessors. Employees serving in positions in newly created titles shall be assigned to the same collective bargaining unit as they would have been assigned to such unit were such titles created prior to the establishment of the water board. Nothing contained in this title shall be construed (a) to diminish the rights of employees pursuant to a collective bargaining agreement or (b) to affect existing law with respect to an application to the public employment relations board seeking a designation by the public employment relations board that certain persons are managerial or confidential.

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

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

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

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

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

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

troller. The authority may pay all expenses, premiums and commissions which it may deem necessary or advantageous in connection with the issuance and sale of bonds or authority obligations.

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) limitations on the amount of revenues and other monies to be expended for operating, administrative or other expenses of the authority;

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

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

(n) any other matters of like or different character which in any way affect the security or protection of the bonds or the rights and remedies of bondholders.

6. In addition to the powers herein conferred upon the authority to secure its bonds, the authority shall have power in connection with the issuance of bonds to adopt resolutions and enter into such trust indentures, agreements or other instruments as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other monies or property, including the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, monies or property and the doing of any act, including refraining from doing any act which the authority would have the right to do in the absence of such resolutions, trust indentures, agreements or other instruments. The authority shall have power to enter into amendments of any such resolutions, trust indentures, agreements or other instruments. The provisions of any such resolutions, trust indentures, agreements or other instruments may be made a part of the contract with the holders of bonds of the authority.

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

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

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

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

§ 1240-l. Remedies of bondholders. Subject to any resolution or resolutions adopted pursuant to this title:

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

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

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

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

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

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

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

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

3. Such trustee shall in addition to the foregoing have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth herein or incident to the general representation of bondholders in the enforcement and protection of their rights.

4. The supreme court shall have jurisdiction of any action or proceeding by the trustee on behalf of such bondholders.

5. Before declaring the principal of bonds due and payable, the trustee shall first give thirty days notice in writing to the authority.

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

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

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

§ 1240-n. Legal investments. The bonds of the authority are hereby made securities in which all public officials and bodies of the state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations, including savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, and administrators, guardians, executors, trustees and other fiduciaries and all other persons whatsoever, who are not or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any inconsistent provision of law, the bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities for any purposes for which the deposit of bonds or other obligations of this state are now or hereafter may be authorized.

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

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

into contracts with the authority or the water board, pursuant to the provisions of this title that the state will not alter, limit or impair the rights hereby vested in the authority or the water board to purchase, construct, own and operate, maintain, repair, improve, reconstruct, renovate, rehabilitate, enlarge, increase and extend, or dispose of any project, or any part or parts thereof for which bonds of the authority shall have been issued, to establish and collect rates, rents, fees and other charges referred to in this title, to fulfill the terms of any contracts or agreements made with or for the benefit of the holders of bonds or with any person or public corporation with reference to such project or part thereof, or in any way to impair the rights and remedies of the holders of bonds, until the bonds, together with interest thereon, including interest on any unpaid installments of interest, and all costs and expenses in connection with any action or proceeding by or on behalf of the holders of bonds, are fully met and discharged and such contracts are fully performed on the part of the authority or the water board, as the case may be. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of bonds.

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

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

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

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

4. The water board shall not be required to pay any taxes or other governmental fees or charges, whether imposed by the state or any county, city, or other municipality, including, without limitation, franchise taxes, sales taxes or other excise taxes, or any other tax or charge upon its property or activities or upon any of its revenues or other income.

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

§ 1240-r. Payment in lieu of taxes. Each year after property theretofore owned by a county, city, or other municipality is acquired by the authority or water board by any means authorized by this title and, as a consequence, is removed from the tax rolls, the authority or water board shall make payments in lieu of taxes to such county, city, or municipality and any school districts therein equal to the taxes and assessments which would have been received from year to year by each such jurisdiction if such acquisition had not occurred.

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

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

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

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

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

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

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

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

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

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

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

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

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

§ 1240-x. Severability. If any clause, sentence, paragraph, section, or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof involved in the controversy in which such judgment shall have been rendered.

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

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

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.