

STATE OF NEW YORK

8851

IN SENATE

March 20, 2024

Introduced by Sen. O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law, in relation to enacting the "Seneca county water and sewer authority act"

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

1 Section 1. Article 5 of the public authorities law is amended by
2 adding a new title 6-E to read as follows:

TITLE 6-E

SENECA COUNTY WATER AND SEWER AUTHORITY

Section 1149. Short title.

6 1149-a. Definitions.

7 1149-b. Seneca county water and sewer authority district.

8 1149-c. Seneca county water and sewer authority.

9 1149-d. Powers of the authority.

10 1149-e. Advances on behalf of the authority; transfer of proper-
11 ty to the authority; acquisition of property by county
12 for the authority.

13 1149-f. Transfer of officers and employees.

14 1149-g. Bonds of the authority.

15 1149-h. Remedies of bondholders.

16 1149-i. State and municipalities not liable on authority bonds.

17 1149-j. Moneys of the authority.

18 1149-k. Bonds legal investments for fiduciaries.

19 1149-l. Agreement with the state.

20 1149-m. Exemption from taxes, assessments and certain fees;
21 payments in lieu of taxes.

22 1149-n. Actions against the authority.

23 1149-o. Interest in contracts prohibited.

24 1149-p. Construction and purchase contracts.

25 1149-q. Authority to take affirmative action.

26 1149-r. Audit and annual report.

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

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1149-s. Environmental applications, proceedings, approvals and permits.

1149-t. Limited liability.

1149-u. Governmental capacity of the authority and municipalities.

1149-v. Separability clause.

1149-w. Effect of inconsistent provisions.

§ 1149. Short title. This title shall be known and may be cited as the "Seneca county water and sewer authority act".

§ 1149-a. Definitions. As used or referred to in this title, unless a different meaning clearly appears from the context:

1. "Authority" shall mean the corporation created by section one thousand one hundred forty-nine-c of this title.

2. "Board" shall mean the members of the authority constituting and acting as the governing board of the authority.

3. "Board of supervisors" shall mean the board of supervisors of Seneca county.

4. "Bonds" shall mean 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.

5. "Civil service commission" shall mean the civil service commission of the county of Seneca.

6. "Comptroller" shall mean the comptroller of the state of New York.

7. "Construction" shall mean the negotiation, acquisition, erection, building, alteration, improvement, testing, increase, enlargement, extension, reconstruction, interconnection, renovation or rehabilitation of a water, sewerage or water and sewerage facility, as the case may be; the inspection and supervision thereof; and the engineering, architectural, legal, appraisal, fiscal, economic and environmental investigations, services and studies, surveys, designs, plans, working drawings, specifications, procedures and other actions preliminary or incidental thereto.

8. "Costs", as applied to any project, shall include the cost of construction, the cost of the acquisition of all property, including both real, personal and mixed, the cost of demolishing, removing or relocating any buildings or structures on lands so acquired, including the cost of acquiring any land to which such buildings or structures may be moved or relocated, the cost of all systems, 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 engineering and architectural surveys, plans and specifications, the cost of consultant and legal services, the cost of lease guarantee or bond insurance or other credit enhancement associated with bonds of the authority (including notes) and the cost of other expenses necessary or incidental to the construction of 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 the county, or any municipality, state agency, the state, the United States government, or any other person for expenditures made by them that would be costs of the project hereunder.

9. "County" shall mean the county of Seneca.

1 10. "Distribution system" shall mean the water facility or facilities
2 employed to deliver water from a transmission facility, or where there
3 is no transmission facility, from a supply facility, to the ultimate
4 consumers of water.

5 11. "District" shall mean the Seneca county water and sewer authority
6 district created by section eleven hundred forty-nine-b of this title.

7 12. "Governing body" shall mean:

8 (a) In the case of a city, county, town or village or district corpo-
9 ration the finance board as such term is defined in the local finance
10 law;

11 (b) In the case of a public benefit corporation, the members thereof.

12 13. "Members" shall mean the members of the board.

13 14. "Municipality" shall mean any county, city, town, village,
14 improvement district under the town law, any other such instrumentality,
15 including any agency or public corporation of the state, or any of the
16 foregoing or any combination thereof.

17 15. "Person" shall mean any natural person, partnership, association,
18 joint venture or corporation, exclusive of a public corporation.

19 16. "Real property" shall mean lands, structures, franchises, rights
20 and interests in land, waters, lands underwater, groundwater, riparian
21 rights and air rights and any and all things and rights included within
22 said term "real property" and includes not only fee simple absolute, but
23 also any and all lesser interests including, but not limited to, ease-
24 ments, rights-of-way, uses, leases, licenses and all other incorporeal
25 hereditaments and every estate, interest or right, legal or equitable,
26 including terms for years and liens thereon by way of judgments, mort-
27 gages or otherwise.

28 17. "State sanitary code" shall mean regulations adopted pursuant to
29 section two hundred twenty-five of the public health law.

30 18. "Sewage" means the water-carried human or animal wastes from resi-
31 dences, buildings, industrial establishments or other places, together
32 with such groundwater infiltration and surface water as may be present.
33 The admixture with sewage of industrial or other waste also shall be
34 considered "sewage" within the meaning of this title.

35 19. "Sewerage facility" or "sewerage facilities" means any plants,
36 structures and other real and personal property acquired, rehabilitated
37 or constructed or planned for the purpose of collecting, conveying,
38 pumping, treating, neutralizing, storing and disposing of sewage,
39 including but not limited to main, trunk, intercepting, connecting,
40 lateral, outlet or other sewers, outfalls, pumping stations, treatment
41 and disposal plants, groundwater recharge basins, back-flow prevention
42 devices, sludge dewatering or disposal equipment and facilities, clari-
43 fiers, filters, phosphorus removal equipment and other plants, works,
44 structures, equipment, vehicles, conveyances, contract rights, fran-
45 chises, approaches, connections, permits, real or personal property or
46 rights therein and appurtenances thereto necessary or useful and conven-
47 ient for the collection, conveyance, pumping, treatment, neutralizing,
48 storing and disposing of sewage.

49 20. "State" shall mean the state of New York.

50 21. "State agency" shall mean any state office, public benefit corpo-
51 ration, department, board, commission, bureau or division, or other
52 agency or instrumentality of the state.

53 22. "Supply facility" shall mean a water facility employed to make
54 groundwater or surface water available for delivery into a transmission
55 facility or distribution system.

1 23. "System revenues" shall mean all rates, rents, fees, charges,
2 payments and other income and receipts derived by the authority includ-
3 ing, without limiting the generality of the foregoing, investment
4 proceeds and proceeds of insurance, condemnation, sales or other dispo-
5 sitions of assets, together with all federal, state or municipal aid as
6 well as any other income derived from the operation of the water facili-
7 ty of the authority.

8 24. "Transmission facility" shall mean a water facility used to carry
9 water from a supply facility to a distribution system.

10 25. "Treasurer" shall mean the treasurer of the authority.

11 26. "Water facility" or "water facilities" shall mean any plants,
12 structures or other real and personal property acquired, rehabilitated
13 or constructed or planned for the purpose of accumulating, supplying,
14 transmitting, distributing or treating water, including but not limited
15 to surface or groundwater reservoirs, basins, dams, canals, aqueducts,
16 standpipes, conduits, pipelines, mains, pumping stations, pumps, water
17 distribution systems, compensating reservoirs, intake stations, water-
18 works or sources of water supply, wells, purification or filtration
19 plants or other treatment plants and works, approaches, connections,
20 water meters, rights of flowage or diversion and other plants, struc-
21 tures, equipment, vehicles, towers, conveyances, real or personal prop-
22 erty or rights therein and appurtenances thereto necessary or useful and
23 convenient for the accumulation, supply, transmission, treatment or
24 distribution of water.

25 27. "Water project" shall mean any sewerage facility, water facility
26 or water and sewerage facility, as the case may be, including the plan-
27 ning, development, financing or construction thereof.

28 28. "Watershed rules" shall mean the rules and regulations made by the
29 department of health pursuant to section eleven hundred of the public
30 health law.

31 § 1149-b. Seneca county water and sewer authority district. There is
32 hereby defined and established a district to be known as the "Seneca
33 county water and sewer authority district" which shall embrace all of
34 the territory located within the county of Seneca.

35 § 1149-c. Seneca county water and sewer authority. 1. A public corpo-
36 ration known as the "Seneca county water and sewer authority" is hereby
37 created for the public purposes and charged with the duties and having
38 the powers provided in this title.

39 The authority shall be a corporate governmental agency constituting a
40 public benefit corporation and shall be a "public district" for the
41 purposes of section eighty-nine-1 of the public service law. The author-
42 ity shall be governed by a board consisting of nine members, who shall
43 be residents of the county and be appointed by the chairperson of the
44 board of supervisors and confirmed by the board of supervisors.

45 The first members appointed shall be appointed for the following
46 terms: three for a term ending on December thirty-first of the year
47 following the year in which this title shall have become law; three for
48 a term ending on December thirty-first of the second year following the
49 year in which this title shall have become law; and three for a term
50 ending on December thirty-first of the third year following the year in
51 which this title shall have become law.

52 Subsequent appointment of members shall be made in the same manner and
53 for terms of three years ending in each case on December thirty-first of
54 the last year of such term. All members shall continue to hold office
55 until their successors are appointed and have qualified.

1 Vacancies shall be filled in the manner provided for original appoint-
2 ment. Vacancies occurring otherwise than by expiration of terms of
3 office, shall be filled by appointment for the unexpired terms.

4 Members may be removed from office for the same reasons and in the
5 same manner as may be provided by law for the removal of officers of the
6 county. In addition, members may be removed from office by the board of
7 supervisors for inefficiency, neglect of duty or misconduct in office,
8 after the board of supervisors has given such member a copy of the
9 charges against such member and opportunity to be heard in person or by
10 counsel in such member's defense, upon not less than ten days notice.

11 If a member fails to attend three consecutive regular meetings of the
12 authority, unless such absence is for good cause and is excused by the
13 chairperson of the authority or other presiding officers, or in the case
14 of the chairperson of the authority, by the chairperson of the board of
15 supervisors, the office may be deemed vacant for purposes of the nomi-
16 nation and appointment of a successor.

17 The officers of the authority shall receive from the authority such
18 salary, if any, as shall be determined from time to time by the board of
19 supervisors. In addition, members and officers shall be entitled to
20 reimbursement of their actual and necessary expenses, including travel
21 expenses, incurred in the discharge of their duties.

22 2. The powers of the authority shall be vested in and shall be exer-
23 cised by the board at a meeting duly called and held where a quorum of
24 five members is present. No action shall be taken by the authority
25 except pursuant to the favorable vote of at least five members. The
26 board may delegate to one or more of its members, or to one or more of
27 the officers, agents or employees of the authority, such powers and
28 duties as it may deem proper.

29 3. The officers of the authority shall consist of a chairperson, vice
30 chairperson, and treasurer who shall be members of the board and a
31 secretary who need not be a member of the board. The officers of the
32 authority shall be appointed by the board and shall serve in such capac-
33 ities at the pleasure of the board.

34 In addition, the board may appoint and at its pleasure remove such
35 additional officers and employees as it may determine necessary for the
36 performance of the powers and duties of the authority, which positions
37 shall be in the exempt class of the civil service, and fix and determine
38 the qualifications, duties and compensation of such additional officers
39 and employees, subject to the provisions of the civil service law of the
40 state and such rules as the civil service commission may adopt and make
41 applicable to the authority.

42 The authority may also from time to time contract for expert profes-
43 sional services. The treasurer shall execute a bond, conditioned upon
44 the faithful performance of the duties of such treasurer's office, the
45 amount and sufficiency of which shall be approved by the board, and the
46 premium therefor shall be paid by the authority.

47 4. Notwithstanding any inconsistent provision of any general, special
48 or local law, ordinance, resolution or charter, no officer, member or
49 employee of the state, any municipality, or any public benefit corpo-
50 ration, shall forfeit such officer, member or employee's office or
51 employment by reason of such officer, member or employee's acceptance of
52 appointment as a member, officer, agent or employee of the authority,
53 nor shall service as such member, officer, agent or employee be deemed
54 incompatible or in conflict with such office, membership or employment,
55 and one or more members of the board of supervisors may be appointed to
56 serve as a member of the authority.

1 5. (a) The chairperson of the board of supervisors shall file within
2 one year after the effective date of this title, in the office of the
3 secretary of state, a certificate signed by the chairperson of the board
4 of supervisors setting forth: (i) the name of the authority; (ii) the
5 names of the initial members of the board and their terms of office; and
6 (iii) the effective date of this title. If such certificate is not filed
7 with the secretary of state on or before such date, then the corporate
8 existence of the authority shall thereupon terminate and it shall there-
9 upon be deemed to be and shall be dissolved.

10 (b) The authority and its corporate existence shall continue until
11 terminated by law, provided, however, that no such law shall take effect
12 so long as the authority shall have bonds or other obligations outstand-
13 ing unless adequate provision has been made for the payment or satisfac-
14 tion thereof. Upon termination of the existence of the authority, all of
15 the rights and properties of the authority then remaining shall pass to
16 and vest in the county.

17 6. Neither the public service commission nor any other board or
18 commission of like character, shall have jurisdiction over the authority
19 in the management and control of its properties or operations of any
20 power over the regulation of rates fixed or charges collected by the
21 authority.

22 7. It is hereby determined and declared that the authority and the
23 carrying out of its powers, purposes and duties are in all respects for
24 the benefit of the people of the county and the state, for the improve-
25 ment of their health, welfare and prosperity and that such purposes are
26 public purposes and that the authority is and will be performing an
27 essential governmental function in the exercise of the powers conferred
28 upon it by this title.

29 § 1149-d. Powers of the authority. The authority shall have the power:

30 1. To sue and be sued;

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

32 3. To borrow money and issue negotiable notes, bonds, or other obli-
33 gations and to provide for the rights of the holders thereof;

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

37 5. To acquire, by purchase, gift, grant, transfer, contract or lease
38 or by condemnation pursuant to the eminent domain procedure law within
39 the district, lease as lessee, hold and use and to sell, lease as
40 lessor, transfer or otherwise dispose of, any real or personal property
41 or any interest therein, within or without the district, as the authori-
42 ty may deem necessary, convenient or desirable to carry out the purpose
43 of this title and to pay the costs thereof; provided, however, that the
44 authority may not condemn real property of a municipality without the
45 consent of the governing body of such municipality;

46 6. To purchase or refuse to purchase in the name of the authority, any
47 water or sewerage facility, including plants, works, instrumentalities
48 or parts thereof and appurtenances thereto, lands, easements, rights in
49 land and water rights, rights-of-way, contract rights, franchises,
50 permits, approaches, connections, dams, wells, pumps, reservoirs, water
51 or sewer mains and pipe lines, pumping stations, treatment facilities,
52 meters, equipment and inventory, or any other property incidental to and
53 included in such system or part thereof, and any improvements, exten-
54 sions and betterments, situated wholly within the district and to pay
55 the costs thereof; provided, however that prior to the acquisition of
56 any existing water or sewer district, the authority shall discuss and

1 consider the status of current employees of the water or sewer district;
2 and further provided, however, that the authority shall have the power
3 to purchase any source of supply, supply facility, water supply system,
4 or transmission facility or any part thereof situated wholly or partly
5 without the territorial limits of the district, provided same shall be
6 necessary in order to supply water within the district; and in
7 connection with the purchase of such properties the authority may assume
8 any obligations of the owner of such properties and, to the extent
9 required by the terms of any indentures or other instruments under which
10 such obligations were issued, the authority may assume and agree to
11 perform covenants and observe the restrictions contained in such instru-
12 ments; and furthermore the owner of any properties, which the authority
13 is authorized to acquire, is hereby authorized to sell or otherwise
14 transfer the same to the authority, whereupon the authority shall become
15 charged with the performance of all public duties with respect to such
16 properties with which such owner was charged and such owner shall become
17 discharged from the performance thereof, and as a means of so acquiring
18 for such purpose, the authority may purchase all of the stock or any
19 existing privately owned water corporation or company and in the case of
20 a sale or other transfer of properties of a public utility corporation
21 pursuant to this provision, upon the purchase of the stock of such
22 corporation or company it shall be lawful to dissolve such corporation
23 within a reasonable time;

24 7. To construct, improve, maintain, develop, expand or rehabilitate
25 water or sewerage facilities and to pay the costs thereof;

26 8. To operate and manage and to contract for the operation and manage-
27 ment of facilities of the authority;

28 9. To enter into contracts, and carry out the terms thereof, for the
29 wholesale provision of water produced by supply facilities constructed,
30 owned or operated by the authority, to municipalities and private water
31 companies and to carry out the terms thereof, for the transmission of
32 water from new or existing supply facilities;

33 10. To enter into contracts with municipalities or other persons for
34 the collection, treatment and disposal of sewage;

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

41 12. To take all necessary and reasonable actions within the district
42 to conserve, preserve and protect the water supply to the district,
43 including the making of plans and studies, the adoption of watershed
44 rules and regulations, the enforcing of compliance with all current and
45 future rules and regulations of the state sanitary code with regard to
46 water supply and usage, the requiring of cross-connection controls, the
47 providing of educational material and programs to the public, and the
48 cooperating with water suppliers outside the district to conserve,
49 preserve and protect the entire water reserve as it is affected within
50 and outside the authority's supply area;

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

14. With the consent of the governing body of a municipality, to use officers and employees of such municipality and to pay a proper proportion of the compensation or costs for the services for such officers or employees;

15. 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;

16. To prepare a water supply emergency plan which may include, but not be limited to, the following:

(a) establishment of criteria and procedures to determine critical water levels or safe yield of system;

(b) identification of existing and future sources of water under normal conditions and emergency conditions;

(c) system capacity and ability to meet peak demand and fire flows concurrently;

(d) storage capacities;

(e) current condition of present interconnections and identification of additional interconnections to meet a water supply emergency;

(f) specific action plan to be followed during a water supply emergency including a phased implementation of the plan;

(g) general water conservation programs and water use reduction strategies for water supply users;

(h) prioritization of water users;

(i) identification and availability of emergency equipment needed during a water supply emergency; and

(j) public notification program coordinated with the phased implementation schedule;

Such plan shall not be adopted until a public hearing on such plan shall have been held, upon not less than fourteen days' notice thereof to each customer, either by mail or by publication once in a newspaper having general circulation within the district; every five years, such plan shall be reviewed and revised if necessary after a public hearing, with notice to each customer as aforesaid;

17. 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;

18. 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;

19. To supply and sell water for domestic, commercial and public purposes at retail to individual consumers within the district or to collect, treat or discharge sewage produced within the district;

20. To purchase water in bulk from any person, private or public benefit corporation or municipality when necessary or convenient for the operation of such water system;

21. To produce, develop, distribute and sell water or sewerage services within or without the territorial limits of the district; and to purchase water from any municipality, town water district, person, association or corporation, provided, however, that water or sewerage services may be sold at retail to individual consumers only within the district and further provided that in exercising the powers granted by

1 this title, the authority shall not sell water in any area which is
2 served by a water system or sewerage services in any area which is
3 served by a sewerage system owned or operated by a municipality or
4 special improvement district unless the governing body of such munici-
5 pality or district shall adopt a resolution requesting the authority to
6 sell water or sewerage services, as the case may be, in such served
7 areas;

8 22. To make bylaws for the management and regulation of its affairs
9 and rules and regulations for the conservation, preservation and
10 protection of the authority's water supply and, subject to agreements
11 with bondholders, rules for the sale of water or collection of sewage
12 and the collection of rents and charges therefor. A copy of such rules,
13 regulations and bylaws and any rules and regulations adopted pursuant to
14 subdivision eleven of this section, and all amendments thereto, duly
15 certified by the secretary of the authority shall be filed in the office
16 of the county clerk of the county. In addition, the board of supervisors
17 by local law shall have power to prescribe that violation of specific
18 bylaws, rules, or rules and regulations of the authority, published once
19 in a newspaper having general circulation within the county, shall be
20 punishable as determined by a court of competent jurisdiction;

21 23. To fix rates and collect charges for the use of the facilities of,
22 or services rendered by, or any commodities furnished by the authority
23 such as to provide revenues sufficient at all times to pay, as the same
24 shall become due, the principal of and interest on the bonds, notes, or
25 other obligations of the authority together with the maintenance of
26 proper reserves therefor, in addition to paying as the same shall become
27 due, the expense of operating and maintaining the properties of the
28 authority together with proper maintenance reserves, capital reserves,
29 repair reserves, other contingency reserves, and all other obligations
30 and indebtedness of the authority;

31 24. To enter into cooperative agreements with other authorities, muni-
32 cipalities, counties, cities, towns, villages, water districts, utility
33 companies, individuals, firms or corporations, within or without the
34 territorial limits of the district for the interconnection of facili-
35 ties, the provision, exchange or interchange of services and commod-
36 ities, the conservation, preservation and protection of the authority's
37 water reserve as it is affected within and outside the authority's
38 supply area, and, within the territorial limits of the district, to
39 enter into a contract for the construction, operation and maintenance of
40 a water supply and distribution system by the authority for any munici-
41 pality having power to construct and develop a water supply and distrib-
42 ution system or sewerage system or facilities, upon such terms and
43 conditions as shall be determined to be reasonable, including but not
44 limited to the reimbursement of all costs of such construction, or for
45 any other lawful purposes necessary or desirable to effect the purposes
46 of this title;

47 25. To provide for the discontinuance or disconnection of the supply
48 of water or sewerage service, or both, as the case may be, for nonpay-
49 ment of fees, rates, rents or other charges therefor imposed by the
50 authority, provided such discontinuance or disconnection of any water or
51 sewerage service, or both, as the case may be, shall not be carried out
52 except in the manner and upon the notice as is required of a waterworks
53 corporation pursuant to subdivisions three-a, three-b and three-c of
54 section eighty-nine-b and section one hundred sixteen of the public
55 service law;

1 26. To act as a county water agency in accordance with the provisions
2 of article five-A of the county law;

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

5 § 1149-e. Advances on behalf of the authority; transfer of property to
6 the authority; acquisition of property by county for authority. 1. In
7 addition to any powers granted to it by law, the county from time to
8 time may appropriate sums of money, after approval by the board of
9 supervisors, to or on behalf of the authority to defray project costs or
10 any other costs and expenses of the authority. Subject to the rights of
11 bondholders, the county at the time of the appropriation shall determine
12 if the moneys so appropriated shall be subject to repayment by the
13 authority to the county and, in such event, the manner and time or times
14 for such repayment.

15 2. The county or any other municipality may give, grant, sell, convey,
16 loan, license the use of or lease to the authority any property or
17 facility which is useful to the authority in order to carry out its
18 powers under this title. Any such transfer of property shall be upon
19 such terms and conditions, subject to the rights of the holders of any
20 bonds, as the authority and the county or other municipality may agree.

21 3. The county may acquire by purchase or by exercise of the power of
22 eminent domain real property in the name of the county for any corporate
23 purpose of the authority.

24 4. Notwithstanding the provisions of any other law, general, special
25 or local to the contrary, real property acquired by the authority or the
26 county from the state may be used for any corporate purpose of the
27 authority.

28 § 1149-f. Transfer of officers and employees. Any officer or employee
29 under civil service who is selected by the authority and may be trans-
30 ferred to the authority and shall be eligible for such transfer and
31 appointment without examination to comparable offices, positions and
32 employment under the authority.

33 The salary or compensation of any such officer or employee, as deter-
34 mined by the authority, shall after such transfer be paid by the author-
35 ity.

36 Any such officers or employees so transferred to the authority pursu-
37 ant to this section, who are members of or beneficiaries under any
38 existing pension or retirement fund or system, shall continue to have
39 all rights, privileges, obligations and status with respect to such fund
40 or system as are now prescribed by law, but during the period of their
41 employment by the authority, all contributions to such funds or systems
42 to be paid by the employer on account of such officers or employees
43 shall be paid by the authority.

44 All such officers and employees so transferred to the authority who
45 have been appointed to positions under the rules and classifications of
46 the civil service commission shall have the same status with respect
47 thereto after transfer to the authority as they had under their original
48 appointments. The appointment and promotion of all employees of the
49 authority shall be made in accordance with the provisions of the civil
50 service law and such rules as the civil service commission may adopt and
51 make applicable to the authority.

52 § 1149-g. Bonds of the authority. 1. The authority shall have the
53 power and is hereby authorized from time to time to issue bonds in
54 conformance with the applicable provisions of the uniform commercial
55 code in such principal amounts as it may determine to be necessary to

1 pay the cost of any water project or projects or for any other corporate
2 purposes, including incidental expenses in connection therewith.

3 The authority shall have power from time to time to refund any bonds
4 by the issuance of new bonds whether the bonds to be refunded have or
5 have not matured, and may issue bonds partly to refund bonds then
6 outstanding and partly for any other corporate purpose.

7 Bonds issued by the authority shall be special obligations payable
8 solely out of particular revenues or other moneys of the authority as
9 may be designated in the proceedings of the authority under which the
10 bonds shall be authorized to be issued, subject to any agreements with
11 the holders of outstanding bonds pledging particular revenues or moneys.

12 2. The authority is authorized to obtain from any department or agency
13 of the United States of America of the state or nongovernmental insurer
14 or financial institution any insurance, guaranty, or other credit
15 enhancement arrangement, to the extent now or hereafter available, as
16 to, or for the payment or repayment of interest or principal, or both,
17 or any part thereof, on any bonds or notes issued by the authority and
18 to enter into any agreement or contract with respect to such insurance,
19 guaranty or credit enhancement arrangement, except to the extent that
20 the same would in any way impair or interfere with the ability of the
21 authority to perform and fulfill the terms of any agreement made with
22 the holder of the bonds or notes of the authority.

23 3. Bonds shall be authorized by resolution of the authority, and may
24 be in such denominations and bear such date or dates and mature at such
25 time or times as such resolution may provide, except that bonds and
26 renewals thereof shall mature within forty years from the date their
27 original issuance and notes and any renewals thereof shall mature within
28 five years from the date of their original issuance. Such bonds shall be
29 subject to such terms of redemption, bear interest at such rate or
30 rates, which may vary from time to time, as may be necessary to effect
31 the sale thereof and shall be payable at such times, be in such form,
32 carry such registration privileges, be executed in such manner, be paya-
33 ble in such medium of payment at such place or places, and be subject to
34 such terms and conditions as such resolution may provide.

35 Bonds may be sold at public sale or at private sale for such price or
36 prices as the authority shall determine, provided that no issue of bonds
37 may be sold by the authority at private sale unless such sale and the
38 terms thereof have been approved in writing by the comptroller, where
39 such sale is not to the comptroller, or by the state director of the
40 budget, where such sale is to be to the comptroller.

41 4. Any resolution or resolutions authorizing bonds or any issue of
42 bonds by the authority may contain provisions which may be part of the
43 contract with the holders of the bonds thereby authorized as to:

44 (a) pledging all or part of its revenues, together with any other
45 moneys, or property of the authority, to secure the payment of the
46 bonds, including but not limited to any contracts, earnings or proceeds
47 of any grant to the authority received from any private or public
48 source, subject to such agreements with bondholders as may then exist;

49 (b) the rates, rentals, fees and other charges to be fixed and
50 collected by the authority and the amounts to be raised in each year
51 thereby, and the use and disposition of revenues;

52 (c) the setting aside of reserves and the creation of sinking funds
53 and the regulation and disposition thereof;

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

1 (e) limitations on the right of the authority to restrict and regulate
2 the use of any water project or part thereof in connection with which
3 bonds are issued;

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

7 (g) the procedure, if any, by which the terms of any contract with
8 bondholders may be amended or abrogated, including the proportion of
9 bondholders which must consent thereto, and the manner in which such
10 consent may be given;

11 (h) the creation of special funds into which any revenues or other
12 moneys may be deposited;

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

15 (j) vesting in a trustee or trustees such properties, rights, powers
16 and duties in trust as the authority may determine, which may include
17 any or all of the rights, powers and duties of the trustee appointed by
18 the bondholders pursuant to applicable sections of this title and limit-
19 ing or abrogating the rights of the bondholders to appoint a trustee
20 under such section or limiting the rights, duties and powers of such
21 trustee;

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

29 (l) limitations on the power of the authority to sell or otherwise
30 dispose of any water facility or any part thereof or other property;

31 (m) limitations on the amount of revenues and other moneys to be
32 expended for operating, administrative or other expenses of the authori-
33 ty;

34 (n) the protection and enforcement of the rights and remedies of the
35 bondholders;

36 (o) the obligations of the authority in relation to the construction,
37 maintenance, operation, repairs and insurance of its properties, the
38 safeguarding and application of all moneys and as to the requirements
39 for the supervision and approval of consulting engineers in connection
40 with construction, reconstruction and operation;

41 (p) the payment of the proceeds of bonds, revenues and other moneys to
42 a trustee or other depository, and for the method of disbursement there-
43 of with such safeguards and restrictions as the authority may determine;
44 and

45 (q) any other matters of like or different character which in any way
46 affect the security or protection of the bonds or the rights and reme-
47 dies of bondholders.

48 5. In addition to the powers herein conferred upon the authority to
49 secure its bonds, the authority shall have power in connection with the
50 issuance of bonds to enter into such agreements as the authority may
51 deem necessary, convenient or desirable concerning the use or disposi-
52 tion of its revenues or other moneys or property, including remarketing
53 agreements or other similar agreements for the bonds, the mortgaging of
54 any property and the entrusting, pledging or creation of any other secu-
55 rity interest in any such revenues, moneys, or property and the doing of

1 any act, including refraining from doing any act, which the authority
2 would have the right to do in the absence of such agreements.

3 The authority shall have power to enter into amendments of any such
4 agreements within the powers granted to the authority by this title and
5 to perform such agreements. The provisions of any such agreements may
6 be made a part of the contract with the holders of bonds of the authori-
7 ty.

8 6. Any provision of the uniform commercial code to the contrary
9 notwithstanding, any pledge of or other security interest in revenues,
10 moneys, accounts, contract rights, general intangibles or other personal
11 property made or created by the authority shall be valid, binding and
12 perfected from the time when such pledge is made or other security
13 interest attaches without any physical delivery of the collateral or
14 further act, and the lien of any such pledge or other security interest
15 shall be valid, binding and perfected against all parties having claims
16 of any kind in tort, contract or otherwise against the authority irre-
17 spective of whether or not such parties have notice thereof. No instru-
18 ment by which such a pledge or security interest is created nor any
19 financing statement need be recorded or filed.

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

25 8. Neither the members nor the officers of the authority nor any
26 person executing bonds shall be liable personally thereon or be subject
27 to any personal liability or accountability by reason of the issuance
28 thereof.

29 9. The authority, subject to such agreements with bondholders as then
30 may exist, shall have power out of any moneys available therefor to
31 purchase bonds of the authority in lieu of redemption, at a price not
32 exceeding:

33 (a) if the bonds are then redeemable, the redemption price then appli-
34 cable, plus accrued interest to the next interest payment date;

35 (b) if the bonds are not then redeemable, the redemption price then
36 applicable on the first date after such purchase upon which the bonds
37 become subject to redemption plus accrued interest to the next interest
38 payment date.

39 10. The authority shall have power and is hereby authorized to issue
40 negotiable bond anticipation notes in conformity with applicable
41 provisions of the uniform commercial code and may renew the same from
42 time to time but the maximum maturity of any such note, including
43 renewals thereof, shall not exceed five years from the date of issue of
44 such original note.

45 Such notes shall be paid from any moneys of the authority available
46 therefor and not otherwise pledged or from the proceeds of sale of the
47 bonds of the authority in anticipation of which they were issued. The
48 notes shall be issued in the same manner as bonds and such notes and the
49 resolution or resolutions authorizing the same may contain any
50 provisions, conditions or limitations which the bonds or bond resolution
51 of the authority may contain. Such notes may be sold at public sale or,
52 upon the approval of the comptroller of the terms thereof, at private
53 sale. Such notes shall be as fully negotiable as the bonds of the
54 authority.

55 § 1149-h. Remedies of bondholders. Subject to any resolution or resol-
56 utions adopted pursuant to applicable provisions of this title:

1 1. In the event that the authority shall default in the payment of
2 principal of or interest on any issue of the bonds after the same shall
3 become due whether at maturity or upon call for redemption, and such
4 default shall continue for a period of thirty days, or in the event that
5 the authority shall fail or refuse to comply with the provisions of this
6 title, or shall default in any agreement made with the holders of any
7 issue of the bonds, the holders of twenty-five per centum in aggregate
8 principal amount of the bonds of such issue then outstanding, by instru-
9 ment or instruments filed in the office of the clerk of the county and
10 proved or acknowledged in the same manner as a deed to be recorded, may
11 appoint a trustee to represent the holders of such bonds for the
12 purposes herein provided.

13 2. Such trustee may, and upon written request of the holders of twenty-
14 five per centum in principal amount of such bonds outstanding shall,
15 in such trustee's own name:

16 (a) by action or proceeding in accordance with the civil practice law
17 and rules, enforce all rights of the bondholders including the right to
18 require the authority to collect rents, rates, fees, and charges
19 adequate to carry out any agreement as to, or pledge of, such rents,
20 rates and charges, and to require the authority to carry out any other
21 agreements with the holders of such bonds and to perform its duties
22 under this title;

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

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

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

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

32 3. Such trustee shall in addition to the foregoing have and possess
33 all of the powers necessary or appropriate for the exercise of any func-
34 tions specifically set forth herein or incidental to the general repre-
35 sentation of bondholders in the enforcement and protection of their
36 rights.

37 4. The state supreme court shall have jurisdiction of any action or
38 proceeding by the trustee on behalf of such bondholders. Venue of any
39 such action or proceeding shall be laid in the county.

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

1 receiver, if any, shall constitute taxable disbursements and all costs
2 and disbursements allowed by the court shall be a first charge on any
3 revenues derived from the properties.

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

6 § 1149-i. State and municipalities not liable on authority bonds.
7 Neither the state nor any municipality shall be liable on the bonds of
8 the authority and such bonds shall not be a debt of the state or of any
9 municipality.

10 § 1149-j. Moneys of the authority. All moneys of the authority from
11 whatever source derived shall be paid to the treasurer of the authority
12 and shall be deposited forthwith in one or more banks and/or trust
13 companies in the state designated by the authority. The moneys in such
14 accounts shall be paid out on checks of the treasurer upon requisition
15 by the board or of such other person or persons as the authority may
16 authorize to make such requisitions.

17 All deposits of such moneys shall be secured by obligations of (or
18 guaranteed by) the United States or of the state or of the county of a
19 market value equal at all times to the amount on deposit and all banks
20 and trust companies are authorized to give such security for such depos-
21 its. Any moneys of the authority not required for immediate use or
22 disbursement may, at the discretion of the authority, be invested in
23 those obligations specified pursuant to the provisions of section nine-
24 ty-eight-a of the state finance law.

25 The authority shall have power, notwithstanding the provisions of this
26 section, to contract with the holders of any bonds as to the custody,
27 collection, security, investment and payment of any moneys of the
28 authority or any moneys held in trust or otherwise for the payment of
29 bonds or any way to secure bonds. Moneys held in trust or otherwise for
30 the payment of bonds or in any way to secure bonds and deposits of such
31 moneys may be secured in the same manner as moneys of the authority and
32 all banks and trust companies are authorized to give such security for
33 such deposits.

34 § 1149-k. Bonds legal investments for fiduciaries. The bonds of the
35 authority are hereby made securities in which all public officials and
36 bodies of the state and all municipalities, all insurance companies and
37 associations and other persons carrying on an insurance business, all
38 banks, bankers, trust companies, savings banks and savings associations,
39 including savings and loan associations, investment companies and other
40 persons carrying on a banking business, and administrators, guardians,
41 executors, trustees and other fiduciaries and all other persons whatso-
42 ever, who are now or may hereafter be authorized to invest in bonds or
43 other obligations of the state, may properly and legally invest funds
44 including capital in their control or belonging to them.

45 The bonds are also hereby made securities which may be deposited with
46 and may be received by all public officers and bodies of the state all
47 municipalities for any purposes for which the deposit of bonds or other
48 obligations of the state is now or hereafter may be authorized.

49 § 1149-l. Agreement with the state. The state does hereby pledge to
50 and agree with the holders of any bonds issued by the authority pursuant
51 to this title that the state will not alter or limit the rights hereby
52 vested in the authority to purchase, construct, maintain, operate,
53 repair, improve, increase, enlarge, extend, reconstruct, renovate, reha-
54 bilitate or dispose of any water or sewer project, or any part or parts
55 thereof, for which bonds of the authority shall have been issued, to
56 establish and collect rates, rents, fees and other charges referred to

1 in this title and to fulfill the terms of any agreement made with or for
2 the benefit of the holders of the bonds or with any public corporation
3 or person with reference to such project or part thereof, or in any way
4 impair the rights and remedies of the bondholders, until the bonds,
5 together with the interest thereon, including interest on any unpaid
6 installments of interest, and all costs and expenses in connection with
7 any action or proceeding by or on behalf of such holders, are fully met
8 and discharged. The authority is authorized to include this pledge and
9 agreement of the state in any agreement with bondholders.

10 § 1149-m. Exemption from taxes, assessments and certain fees; payments
11 in lieu of taxes. 1. It is hereby determined that the creation of the
12 authority and the carrying out of its corporate purposes is in all
13 respects for the benefit of the people of the county and the state and
14 is a public purpose, and the authority shall be regarded as performing a
15 governmental function in the exercise of the powers conferred upon it by
16 this title and shall not be required to pay any taxes, special ad valo-
17 rem levies or special assessments upon any real property owned by it or
18 any filing, recording or transfer fees or taxes in relation to instru-
19 ments filed, recorded or transferred by it or on its behalf.

20 2. The authority may pay, or may enter into agreements with any muni-
21 cipality not located within the county to pay, a sum or sums annually or
22 otherwise or to provide other considerations to such municipality with
23 respect to real property owned by the authority located within such
24 municipality and constituting a part of its water or sewerage system.

25 3. Any bonds issued pursuant to this title together with the income
26 therefrom shall be exempt from taxation except for transfer and estate
27 taxes. The revenues, moneys and all other property and all activities of
28 the authority shall be exempt from all taxes and governmental fees or
29 charges, whether imposed by the state or any municipality, including
30 without limitation real estate taxes, franchise taxes, sales taxes or
31 other excise taxes.

32 4. The state hereby covenants with the purchasers and with all subse-
33 quent holders and transferees of bonds issued by the authority pursuant
34 to this title, in consideration of the acceptance of and payment for the
35 bonds, that the bonds of the authority issued pursuant to this title and
36 the income therefrom shall be exempt from taxation as aforestated in
37 subdivision three of this section, and that all revenues, moneys, and
38 other property pledged to secure the payment of such bonds shall at all
39 times be free from taxation as aforestated in such subdivision.

40 § 1149-n. Actions against the authority. 1. Except in an action for
41 wrongful death, no action or special proceeding shall be prosecuted or
42 maintained against the authority for personal injury or damage to real
43 or personal property alleged to have been sustained by reason of the
44 negligence or wrongful act of the authority or any member, officer,
45 agent or employee thereof, unless:

46 (a) a notice of claim shall have been made and served upon the author-
47 ity within the time limit prescribed by and in compliance with section
48 fifty-e of the general municipal law;

49 (b) it shall appear by and as an allegation in the complaint or moving
50 papers that at least thirty days have elapsed since the service of such
51 notice and that adjustment or payment thereof has been neglected or
52 refused;

53 (c) the action or special proceeding shall be commenced within one
54 year and ninety days after the happening of the event upon which the
55 claim is based; and

1 (d) the action or special proceeding shall be commenced in accordance
2 with the notice of claim and time limitation provisions of this chapter.

3 2. Wherever a notice of claim is served upon the authority, it shall
4 have the right to demand an examination of the claimant relative to the
5 occurrence and extent of the injuries or damages for which claim is
6 made, in accordance with the provisions of section fifty-h of the gener-
7 al municipal law.

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

15 4. Any action or proceeding to which the authority or the people of
16 the state may be parties, in which any question arises as to the validi-
17 ty of this title, shall be preferred over all other civil causes of
18 action or cases, except election causes of action or cases, in all
19 courts of the state and shall be heard and determined in preference to
20 all other civil business pending therein except election causes, irre-
21 spective of position on the calendar. The same preference shall be
22 granted upon application of the authority or its counsel in any action
23 or proceeding questioning the validity of this title in which the
24 authority may be allowed to intervene. The venue of any such action or
25 proceeding shall be laid in the supreme court of the county.

26 5. The rate of interest to be paid by the authority upon any judgment
27 for which it is liable, other than a judgment against the authority on
28 bonds, shall be the rate prescribed by section three-a of the general
29 municipal law. Interest on payments of principal or interest on any
30 bonds in default shall accrue at the rate or rates set forth in such
31 bonds from the due date thereof until paid or otherwise satisfied.

32 § 1149-o. Interest in contracts prohibited. It shall be a misdemeanor
33 for any member or any officer, agent, servant or employee of an authori-
34 ty to be in any way or manner interested, directly or indirectly, in the
35 furnishing of work, materials, supplies or labor, or in any contract
36 therefor which the authority is empowered by this title to make.

37 § 1149-p. Construction and purchase contracts. The authority shall let
38 contracts for construction or purchase of supplies, materials, or equip-
39 ment pursuant to section one hundred three of the general municipal law.
40 Nothing in this section shall be construed to limit the power of the
41 authority to do any construction directly by the officers, agents and
42 employees of the authority.

43 § 1149-q. Authority to take affirmative action. The authority shall
44 ensure that, where possible, all employees or applicants for employment
45 are afforded equal employment opportunity without discrimination.

46 § 1149-r. Audit and annual report. In conformity with the provisions
47 of section five of article ten of the constitution, the accounts of the
48 authority shall be subject to the supervision of the comptroller. The
49 authority shall annually submit to the governor and comptroller and to
50 the state legislature a detailed report pursuant to the provisions of
51 this chapter, and a copy of such report shall be filed with the board of
52 supervisors.

53 § 1149-s. Environmental applications, proceedings, approvals and
54 permits. Any application in relation to the purposes of or contemplated
55 by this title heretofore filed, or any proceeding heretofore commenced,
56 by the county or any agency thereof with the department of environmental

1 conservation, the department of transportation or any other state agency
2 or instrumentality or with the United States environmental protection
3 agency or any other federal agency or instrumentality shall inure to and
4 for the benefit of the authority to the same extent and in the same
5 manner as if the authority had been a party to such application or
6 proceeding from its inception, and the authority shall be deemed a party
7 thereto, to the extent not prohibited by any federal law. Any license,
8 approval, permit or decision heretofore or hereafter issued or granted
9 pursuant to or as a result of any such application or proceeding shall
10 inure to the benefit of and be binding upon the authority and shall be
11 assigned and transferred by the county or any agency thereof to the
12 authority, unless such assignment and transfer is prohibited by federal
13 law.

14 § 1149-t. Limited liability. Neither the members of the authority, nor
15 any municipality, officer or employee acting in its behalf, while acting
16 within the scope of their authority, shall be subject to any personal
17 liability resulting from the construction, maintenance or operation of
18 any of the properties of the authority or from carrying out any of the
19 powers expressly given in this title; provided, however, that this
20 section shall not be held to apply to any independent contractor.

21 § 1149-u. Governmental capacity of the authority and municipalities.
22 The authority, the county and the other municipalities, in carrying out
23 their respective powers and duties under this title, shall be deemed to
24 be acting in a governmental capacity and in the performance of an essen-
25 tial governmental function.

26 § 1149-v. Separability clause. If any section, clause or provision in
27 this title shall be held by a competent court to be unconstitutional or
28 ineffective in whole or in part, to the extent that it is not unconsti-
29 tutional or ineffective, it shall be valid and effective, and no other
30 section, clause or provision shall on account thereof be deemed invalid
31 or ineffective.

32 § 1149-w. Effect of inconsistent provisions. Insofar as the provisions
33 of this title are inconsistent with the provisions of any other general,
34 special or local law, or of any charter or any local law, ordinance or
35 resolution of the county or other municipality, the provisions of this
36 title shall be controlling, provided that nothing contained in this
37 section shall be held to supplement or otherwise expand the powers or
38 duties of the authority otherwise set forth in this title. Nothing
39 contained in this title shall be held to alter or abridge the powers and
40 duties of the department of environmental conservation or the department
41 of health.

42 § 2. This act shall take effect immediately.