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:

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

TITLE 6-E
SENECA COUNTY WATER AND SEWER AUTHORITY
Section 1149. Short title.
1149-a. Definitions.
1149-b. Seneca county water and sewer authority district.
1149-c. Seneca county water and sewer authority.
1149-d. Powers of the authority.
1149-e. Advances on behalf of the authority; transfer of property to the authority; acquisition of property by county for the authority.
1149-f. Transfer of officers and employees.
1149-g. Bonds of the authority.
1149-h. Remedies of bondholders.
1149-i. State and municipalities not liable on authority bonds.
1149-j. Moneys of the authority.
1149-k. Bonds legal investments for fiduciaries.
1149-l. Agreement with the state.
1149-m. Exemption from taxes, assessments and certain fees; payments in lieu of taxes.
1149-n. Actions against the authority.
1149-o. Interest in contracts prohibited.
1149-p. Construction and purchase contracts.
1149-q. Authority to take affirmative action.
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.

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

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

12. "Governing body" shall mean:

(a) In the case of a city, county, town or village or district corporation the finance board as such term is defined in the local finance law;

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

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

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

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

16. "Real property" shall mean lands, structures, franchises, rights and interests in land, waters, lands underwater, groundwater, riparian rights and air rights and any and all things and rights included within said term "real property" 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.

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

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

19. "Sewerage facility" or "sewerage facilities" means any plants, structures and other real and personal property acquired, rehabilitated or constructed or planned for the purpose of collecting, conveying, pumping, treating, neutralizing, storing and disposing of sewage, including but not limited to main, trunk, intercepting, connecting, lateral, outlet or other sewers, outfalls, pumping stations, treatment and disposal plants, groundwater recharge basins, back-flow prevention devices, sludge dewatering or disposal equipment and facilities, clarifiers, filters, phosphorus removal equipment and other plants, works, structures, equipment, vehicles, conveyances, contract rights, franchises, approaches, connections, permits, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the collection, conveyance, pumping, treatment, neutralizing, storing and disposing of sewage.

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

21. "State agency" shall mean any state office, public benefit corporation, department, board, commission, bureau or division, or other agency or instrumentality of the state.

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

23. "System revenues" shall mean all rates, rents, fees, charges, payments and other income and receipts derived by the authority including, without limiting the generality of the foregoing, investment proceeds and proceeds of insurance, condemnation, sales or other dispositions of assets, together with all federal, state or municipal aid as well as any other income derived from the operation of the water facility of the authority.

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

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

26. "Water facility" or "water facilities" shall mean any plants, structures or other real and personal property acquired, rehabilitated or constructed or planned for the purpose of accumulating, supplying, transmitting, distributing or treating water, including but not limited to surface or groundwater reservoirs, basins, dams, canals, aqueducts, standpipes, conduits, pipelines, 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, approaches, connections, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, towers, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, treatment or distribution of water.

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

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

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

§ 1149-c. Seneca county water and sewer authority. 1. A public corporation known as the "Seneca county water and sewer 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 corporate governmental agency constituting a public benefit corporation and shall be a "public district" for the purposes of section eighty-nine-l of the public service law. The authority shall be governed by a board consisting of nine members, who shall be residents of the county and be appointed by the chairperson of the board of supervisors and confirmed by the board of supervisors.

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

Subsequent appointment of members shall be made in the same manner and for terms 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 have qualified.

Vacancies shall be filled in the manner provided for original appointment. Vacancies occurring otherwise than by expiration of terms of office, shall be filled by appointment for the unexpired terms.

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

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

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

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

3. The officers of the authority shall consist of a chairperson, vice chairperson, and treasurer who shall be members of the board and a secretary who need not be a member of the board. The officers of the authority shall be appointed by the board and shall serve in such capacities at the pleasure of the board.

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

The authority 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 such treasurer's office, the amount and sufficiency of which shall be approved by the board, 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 municipality, or any public benefit corporation, shall forfeit such officer, member or employee's office or employment by reason of such officer, member or employee's acceptance of appointment as a member, officer, agent or employee of the authority, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment, and one or more members of the board of supervisors may be appointed to serve as a member of the authority.

5. (a) The chairperson of the board of supervisors shall file within one year after the effective date of this title, in the office of the secretary of state, a certificate signed by the chairperson of the board of supervisors setting forth: (i) the name of the authority; (ii) the names of the initial members of the board and their terms of office; and (iii) the effective date of this title. 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. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the county.

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

7. It is hereby determined and declared that the authority and the carrying out of its powers, purposes and duties are in all respects for the benefit of the people of the county 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 will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

§ 1149-d. 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 negotiable notes, bonds, or other obligations and to provide for the rights of the holders thereof;

4. To enter into contracts and 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;

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

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

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

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

8. To operate and manage and to contract for the operation and management of facilities of the authority;

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

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

11. 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;

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

13. To appoint such officers and employees as are required for the performance of its duties, 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;

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

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

22. To make bylaws for the management and regulation of its affairs and rules and regulations for the conservation, preservation and protection of the authority's water supply 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, regulations and bylaws and any rules and regulations adopted pursuant to subdivision eleven of this section, and all amendments thereto, duly certified by the secretary of the authority shall be filed in the office of the county clerk of the county. In addition, the board of supervisors by local law shall have power to prescribe that violation of specific bylaws, rules, or rules and regulations of the authority, published once in a newspaper having general circulation within the county, shall be punishable as determined by a court of competent jurisdiction;

23. To fix rates and collect charges for the use of the facilities of, or services rendered by, or any commodities furnished by the authority such as to provide revenues sufficient at all times to pay, as the same shall become due, the principal of and interest on the bonds, notes, or other obligations of the authority 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 authority together with proper maintenance reserves, capital reserves, repair reserves, other contingency reserves, and all other obligations and indebtedness of the authority;

24. To enter into cooperative agreements with other authorities, municipalities, counties, cities, towns, villages, water districts, utility companies, individuals, firms or corporations, within or without the territorial limits of the district for the interconnection of facilities, the provision, exchange or interchange of services and commodities, the conservation, preservation and protection of the authority's water reserve as it is affected within and outside the authority's supply area, and, within the territorial limits of the district, to enter into a contract for the construction, operation and maintenance of a water supply and distribution system by the authority for any municipality having power to construct and develop a water supply and distribution system or sewerage system or facilities, 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;

25. To provide for the discontinuance or disconnection of the supply of water or sewerage service, or both, as the case may be, for nonpayment of fees, rates, rents or other charges therefor imposed by the authority, provided such discontinuance or disconnection of any water or 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 subdivisions three-a, three-b and three-c of section eighty-nine-b and section one hundred sixteen of the public service law;

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

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

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

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

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

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

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

The salary or compensation of any such officer or employee, as determined by the authority, shall after such transfer be paid by the authority.

Any such officers or employees so transferred to the authority pursuant to this section, who are members of or beneficiaries 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 authority, 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 authority.

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

§ 1149-g. 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 the applicable provisions of the uniform commercial code in such principal amounts as it may determine to be necessary to

pay the cost of any water project or projects or for any other corporate purposes, including 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 shall be special obligations payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements with the holders of outstanding bonds pledging particular revenues or moneys.

2. The authority is authorized to obtain from any department or agency of the United States of America of the state or nongovernmental insurer or financial institution any insurance, guaranty, or other credit enhancement arrangement, 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 or notes issued by the authority and to enter into any agreement or contract with respect to such insurance, guaranty or credit enhancement arrangement, 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 holder of the bonds or notes of the authority.

3. Bonds shall be authorized by resolution of the authority, and may be in such denominations and bear such date or dates and mature at such time or times as such resolution may provide, except that bonds and renewals thereof shall mature within forty years from the date their original issuance and notes and any renewals thereof shall mature within five years from the date of their original issuance. Such bonds shall be subject to such terms of redemption, bear interest at such rate or rates, which may vary from time to time, as may be necessary to effect the sale thereof and shall be 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 sale or at 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 the comptroller, where such sale is not to the comptroller, or by the state director of the budget, where such sale is to be to the comptroller.

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

(a) pledging all or part of its revenues, together with any other moneys, or property of the authority, to secure the payment of the bonds, 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 rates, rentals, fees and other charges to be fixed and collected by the authority and the amounts to be raised in each year thereby, and the use and disposition of revenues;

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

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

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

(f) 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;

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

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

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

(j) 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 trustee appointed by the bondholders pursuant to applicable sections of this title and limiting or abrogating the rights of the bondholders to appoint a trustee under such section or limiting the rights, duties and powers of such trustee;

(k) 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;

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

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

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

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

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

(q) 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.

5. 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 enter into such agreements as the authority may deem necessary, convenient or desirable concerning the use or disposition of its revenues or other moneys or property, including remarketing agreements or other similar agreements for the bonds, the mortgaging of any property and the entrusting, pledging or creation of any other security interest in any such revenues, moneys, 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 agreements.

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

6. Any provision of the uniform commercial code to the contrary notwithstanding, any pledge of or other security interest in revenues, moneys, accounts, contract rights, general intangibles or other personal property made or created by the authority shall be valid, binding and perfected 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 irrespective of whether or not 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.

7. Whether or not the bonds of the authority 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 purposes of the uniform commercial code, subject only to the provisions of the bonds for registration.

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

9. The authority, subject to such agreements with bondholders as then may exist, shall have power out of any moneys available therefor to purchase bonds of the authority in lieu of redemption, 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;

(b) if the bonds are not then redeemable, the redemption price then 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.

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

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

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

1. In the event that the authority shall default in the payment of principal of or interest on any issue of the 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 the bonds, the holders of twenty-five per centum in aggregate principal amount of the bonds of such issue then outstanding, by instrument or instruments filed in the office of the clerk of the county 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 purposes herein provided.

2. Such trustee may, and upon written request of the holders of twenty-five per centum in principal amount of such bonds outstanding shall, in such trustee's 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 collect rents, rates, fees, and charges adequate to carry out any agreement as to, or pledge of, such rents, rates and charges, and to require the authority to carry out any other agreements with the holders of such bonds and 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 per centum 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 incidental to the general representation of bondholders in the enforcement and protection of their rights.

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

5. 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 revenues derived from the properties.

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

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

§ 1149-j. 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 one or more banks and/or trust companies in the state designated by the authority. The moneys in such accounts shall be paid out on checks of the treasurer upon requisition by the board or of such other person or persons as the authority may authorize to make such requisitions.

All deposits of such moneys shall be secured by obligations of (or guaranteed by) the United States or of the state or of the county 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. 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.

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 any way to secure bonds. Moneys held in trust or otherwise for the payment of bonds or in any way to secure bonds 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.

§ 1149-k. Bonds legal investments for fiduciaries. 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, 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 now 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.

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

§ 1149-l. Agreement with the state. The state does hereby pledge to and agree with the holders of any bonds issued by the authority pursuant to this title that the state will not alter or limit the rights hereby vested in the authority to purchase, construct, maintain, operate, repair, improve, increase, enlarge, extend, reconstruct, renovate, rehabilitate or dispose of any water or sewer 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 and to fulfill the terms of any agreement made with or for the benefit of the holders of the bonds or with any public corporation or person with reference to such project or part thereof, or in any way impair the rights and remedies of the bondholders, until the bonds, together with the 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 such holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with bondholders.

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

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

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

4. 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 shall be exempt from taxation as aforestated in subdivision three of this section, and that all revenues, moneys, and other property pledged to secure the payment of such bonds shall at all times be free from taxation as aforestated in such subdivision.

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

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

(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; and

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

2. Wherever a notice of claim is served upon the authority, it 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 authority may require any person presenting for settlement an account or claim for any cause whatever against the authority to be sworn before a member, counsel, or an attorney, officer or employee thereof 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 authority shall have power to settle or adjust all claims in favor of or against the authority.

4. Any action or proceeding to which the authority 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.

5. The rate of interest to be paid by the authority upon any judgment for which it is liable, other than a judgment against the authority on bonds, shall be the rate prescribed by section three-a of the general municipal law. 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.

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

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

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

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

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

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

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

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

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

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

§ 2. This act shall take effect immediately.