

STATE OF NEW YORK

8036

2023-2024 Regular Sessions

IN ASSEMBLY

September 13, 2023

Introduced by M. of A. STIRPE -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the public authorities law and the executive law, in relation to establishing the Oswego river basin authority

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

1 Section 1. Article 8 of the public authorities law is amended by
2 adding a new title 36 to read as follows:

3 TITLE 36

4 OSWEGO RIVER BASIN AUTHORITY

5 Section 2799-aaaaa. Short title.

6 2799-bbbbb. Definitions.

7 2799-ccccc. Oswego river basin authority.

8 2799-ddddd. Organization of the Oswego river basin authority.

9 2799-eeeee. General duties.

10 2799-fffff. General powers.

11 2799-ggggg. Oswego river basin advisory committee.

12 2799-hhhhh. Oswego river basin intergovernmental council.

13 2799-iiiiii. Acquisition of real estate.

14 2799-jjjjj. Discontinuance or relocation, or both, of highways,
15 roads and streets.

16 2799-kkkkk. Taxation of real estate.

17 2799-lllll. Cemeteries.

18 2799-mmmmm. Procedure for construction of reservoirs, dams and
19 other flood mitigation structures.

20 2799-nnnnn. Operation of reservoirs, dams or other flood miti-
21 gation structures.

22 2799-ooooo. Apportionment of cost.

23 2799-ppppp. Assessments; how levied and collected.

24 2799-qqqqq. Operation and maintenance charges.

25 2799-rrrrr. Error in names.

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

LBD13168-02-3

1 2799-sssss. Financing.

2 2799-ttttt. Reports.

3 2799-uuuuu. Hearings; hearing officers; determinations.

4 2799-vvvvv. Title not affected if in part unconstitutional or
5 ineffective.

6 2799-wwwww. Actions against the authority.

7 § 2799-aaaaa. Short title. This title shall be known and may be cited
8 as the "Oswego river basin authority act".

9 § 2799-bbbbb. Definitions. As used in this title, the following terms
10 shall have the following meanings:

11 1. "Real estate" shall include, when used without words of limitation,
12 all uplands, lands under water, the waters of any lake, pond or stream,
13 all water and riparian rights or privileges, all water powers, water
14 plants, and all dams, races, sluiceways and machinery connected there-
15 with, and any and all easements and incorporeal hereditaments, and every
16 estate, interest and right, legal or equitable, in land or water,
17 including terms for years, and liens, legal or equitable, on real
18 estate, as above defined, in way of judgment, mortgage or otherwise, and
19 all real estate as above defined acquired or used for railroad, highway,
20 or other public purposes.

21 2. "Reservoir" means a basin for impounding water, formed or enlarged
22 by a dam, constructed or maintained for the purpose of regulating the
23 flow of a stream or river and shall be construed to include the dams and
24 dikes or other structures by means of which the water is or is to be
25 impounded, the gate houses, including controlling gates, sluices,
26 screens, racks and other accessories thereto; spillways, fishways, log
27 or ice chutes, or barriers and all accessories thereto; all bridges or
28 roadways over or appurtenant to the dams and dikes; all other struc-
29 tures, devices, or appliances connected with or appurtenant to any of
30 the structures hereinbefore enumerated, in such manner that they cannot
31 be removed without injury to such structures or without impairing the
32 usefulness thereof for the purposes for which they are intended; the
33 lands under the water impounded, or to be impounded, by the dam or dams,
34 and such lands surrounding or adjacent to the dam, or the water impound-
35 ed or to be impounded thereby, and such other real estate and appli-
36 ances, including roadways and telephone lines, as shall be necessary for
37 the purposes of the construction, maintenance, or operation of a reser-
38 voir, as above defined, also including such land surrounding such reser-
39 voir as may be necessary to preserve and protect such reservoir from
40 unsanitary conditions, and from any encroachment affecting its use for
41 the purpose of regulating the flow of the stream or river for the regu-
42 lation of which it may be constructed. Such term is not intended to
43 include a reservoir created by a dam constructed or maintained for power
44 purposes except when necessity or emergency requires the control, regu-
45 lation, adjustment or monitoring of water flows of such reservoir
46 created by a dam constructed or maintained for power purposes pursuant
47 to section twenty-seven hundred ninety-nine-oooo of this title, but is
48 intended to include a reservoir at or by reason of which there may be,
49 as an incident to the construction, maintenance and operation of such
50 reservoir, the possibility of the utilization of a portion of the water
51 stored thereby for power purposes, without in any way interfering with
52 the primary purpose of a reservoir constructed under the provisions of
53 this title.

54 3. "Benefit" or "benefits" shall be interpreted to include benefits to
55 real estate, public or private, to municipal water supply, to naviga-
56 tion, to flood mitigation, to flood emergency response, to agriculture

1 and to industrial and general welfare by reason of the maintenance and
2 operation of a reservoir, dam or other flood mitigation structure,
3 whether such benefit shall inure to a person, a public corporation or
4 the state. In the event that any reservoir, dam or other flood miti-
5 gation structure operates to relieve the state of any obligation by
6 reason of diversion of the water of any river for canal purposes, the
7 state, to the extent that the maintenance and operation of such reser-
8 voir, dam or other flood mitigation structure may accomplish such
9 relief, shall be deemed to have received benefit therefrom.

10 4. "Authority" means the Oswego river basin authority.

11 5. "Preliminary expenses" means expenditures made or incurred by the
12 state on account of the services or expenses of its officers or employ-
13 ees in making studies, investigations, surveys, plans, specifications
14 and estimates; in negotiating, drafting, and letting contracts; in
15 supervising and directing the construction of works and structures, as
16 authorized or required by this title; and the expenses of procuring
17 searches, or abstracts of title of real estate for the purpose of carry-
18 ing out the provisions of this title.

19 6. "Regulation" means only such regulation as can be had through the
20 construction, maintenance, operation, monitoring and adjustment of water
21 flows of a reservoir, dam or other flood mitigation structure, excepting
22 as otherwise expressly provided in this title.

23 7. "Average flow" means that result in terms of cubic feet of water
24 per second derived by the division of the total number of cubic feet of
25 water flowed by any stream or river, at the location thereon where the
26 measurement is taken, in one year, or for an average of years, by the
27 number of seconds in a year.

28 8. "Average normal flow" or "normal flow" means that result in terms
29 of cubic feet of water per second derived by the division of the total
30 number of cubic feet of water flowed by any stream or river, at the
31 location thereon where the measurement thereof is taken, on those days
32 in a year during which such flow did not exceed the average flow, by the
33 number of seconds in the total number of such days.

34 9. "Cost of construction" shall include, in addition to the cost of a
35 reservoir, dam or other flood mitigation structure, all preliminary
36 expenses, all expenses of organization of the authority, engineering
37 fees, costs of surveys, plans, advertising, salaries, compensation and
38 expenses of the authority, together with all legal and other expenses,
39 incidental to the construction of such reservoir, dam or other flood
40 mitigation structure up to time of the completion thereof.

41 10. "Cost of maintenance and operation" shall include all expenses for
42 repairs and upkeep of a reservoir, dam or other flood mitigation struc-
43 ture, all such expenses necessary to the proper operation of such reser-
44 voir, dam or other flood mitigation structure for the purposes for which
45 it was constructed and all such part of the compensation and expenses of
46 the authority, its officers and employees after the completion of such
47 reservoir, dam or other flood mitigation structure as are in the judg-
48 ment of the authority.

49 11. "High flow line" means the line which will be made around a reser-
50 voir, dam or other flood mitigation structure, as applicable, by the
51 water therein when it is at the level of the crest of the reservoir, dam
52 or other flood mitigation structure spillway.

53 12. "Low flow line" means the line made by the water of a reservoir,
54 dam or other flood mitigation structure, if applicable, when it is at
55 the lowest level which, consistent with the regulation of the flow of

1 the river and the maintenance of sanitary conditions, the authority
2 shall fix and determine.

3 13. "Unsanitary condition or conditions" means such condition or
4 conditions which are a menace to the public health.

5 14. "Filing" means, whenever it is required that copies of maps and
6 documents be filed, certified copies thereof shall be filed in the
7 offices of the clerks of each county, town, city or incorporated
8 village, any part of which wholly or partially contained within the
9 Oswego river basin, and made available on the website of the authority.

10 15. "Recorded" means, whenever it is required that any document be
11 recorded, the authority shall send a certified copy thereof to the clerk
12 of each county, town, city or incorporated village, any part of which
13 wholly or partially contained within the Oswego river basin, and it
14 shall be the duty of such clerk thereupon to record such document and to
15 collect the legal fees therefor.

16 16. "Costs" means, whenever it is practicable so to do, in the cost of
17 any surveys, maps, estimates, determinations of enhancements, apportion-
18 ments of costs or assessments made, or construction, maintenance or
19 repair work carried out, the inclusion of the cost of all proceedings,
20 hearings, notifications, filings, recordings, and engineering, legal and
21 other services and expenses which may lawfully be incurred, including
22 the cost of acquisition of lands and rights of way, suits and prose-
23 cutions.

24 17. "Assessment" means the whole or any appropriate part of the proce-
25 dure by which the cost of any proceeding or construction project is made
26 a legal charge on certain properties. It may include the determination
27 of enhancements and apportionment of construction and other costs.
28 Assessment includes similar proceedings once specified in former or
29 other general and special laws with regard to drainage.

30 18. "National flood insurance program" means that act of Congress
31 codified as chapter fifty of title forty-two of the United States code,
32 all acts amendatory thereof and all regulations promulgated thereunder.

33 19. "Projects and activities" means any action taken by the authority
34 in the implementation of this title.

35 20. "Oswego river basin" means a watershed in the state of New York
36 comprised of all rivers, streams, creeks, lakes, reservoirs and the
37 surrounding land areas or other drainage, including but not limited to
38 canals, that drains or flows via the Oswego river into Lake Ontario.

39 21. "Disconnected floodplain" means an area in a floodplain identified
40 by the federal emergency management agency or the department of environ-
41 mental conservation that is disconnected from rivers and streams by
42 berms, roads, structures, or other development for any reason.

43 22. "North American vertical datum of 1988" means an elevation survey-
44 ing system developed by the national oceanic and atmospheric adminis-
45 tration, or successor elevation surveying system developed by such
46 administration.

47 23. "Canal corporation" means the New York state canal corporation.

48 24. "Reservoir, dam or other flood mitigation structure" means any
49 structure constructed, owned, operated, maintained, or regulated by the
50 authority used to mitigate flood events or to regulate the flow of water
51 in the Oswego river basin, including but not limited to a reservoir, as
52 defined in subdivision two of this section.

53 25. "Forest preserve" shall have the same meaning as such term is
54 defined pursuant to subdivision six of section 9-0101 of the environ-
55 mental conservation law.

1 § 2799-ccccc. Oswego river basin authority. For the purpose of effec-
2 tuating the general duties and powers established by this title, includ-
3 ing but not limited to, flood mitigation, water flow management, water
4 flow monitoring, emergency management and flood response, and any other
5 duty or power contained in this title, there is hereby created a corpo-
6 rate municipal instrumentality of the state to be known as the "Oswego
7 river basin authority", which shall be a body corporate and politic, and
8 a political subdivision of the state, exercising governmental and public
9 powers, perpetual in duration, capable of suing and being sued, and
10 which shall have the general powers and duties hereinafter enumerated,
11 together with such others as may hereafter be conferred upon it by law.

12 § 2799-ddddd. Organization of the Oswego river basin authority. 1.
13 The authority shall consist of seven trustees, who shall serve respec-
14 tively for terms of one, two, three, four, five, six and seven years, to
15 be appointed by the governor, by and with the advice and consent of the
16 senate. Each trustee shall hold office until a successor has been
17 appointed and qualified. At the expiration of the term of each trustee
18 and of each succeeding trustee, the governor shall, by and with the
19 advice and consent of the senate, appoint a successor, who shall hold
20 office for a term of five years, or until a successor has been appointed
21 and qualified. In the event of a vacancy occurring in the office of the
22 trustee by death, resignation or otherwise, the governor shall, by and
23 with the advice and consent of the senate, appoint a successor, who
24 shall hold office for the unexpired term. Four trustees shall constitute
25 a quorum for the purpose of organizing the authority and conducting the
26 business thereof.

27 2. Each trustee of the authority, before entering upon such trustee's
28 duties, shall take and subscribe the constitutional oath of office,
29 which oath shall be filed in the office of the secretary of state. Upon
30 taking the oath, the trustees shall choose from among their own number a
31 chair and vice-chair and shall select a treasurer. The chair shall also
32 act as chief executive officer whose appointment shall be subject to
33 confirmation by the senate. The trustees shall adopt by-laws and rules
34 and regulations suitable to the purposes of this title. The trustees
35 shall adopt a seal and shall keep in well-bound books a record of all
36 its meetings and proceedings, certificates, contracts, surety bonds, and
37 corporate acts, which shall be open to the inspection of the trustees
38 thereof, all owners of real estate in the Oswego river basin and the
39 public, and shall make all such information available on the authority's
40 website.

41 3. The trustee chosen as chair, as provided in subdivision two of this
42 section, shall receive an annual salary which shall be set by the trus-
43 tees of the authority, and which shall not exceed the salary prescribed
44 for the positions listed in paragraph (c) of subdivision one of section
45 one hundred sixty-nine of the executive law. All other trustees shall
46 not receive a salary or other compensation. Each trustee shall receive
47 such trustee's reasonable expenses in the performance of such trustee's
48 duties hereunder. The trustee chosen as chair may elect to become a
49 member of the New York state and local employees' retirement system on
50 the basis of such compensation to which such chair shall be entitled as
51 herein provided, notwithstanding the provisions of any general, special
52 or local law, municipal charter, or ordinance.

53 4. The chief executive officer shall keep and be the custodian of the
54 records of the authority, and of its corporate seal, and shall assist
55 the authority in such particulars as it may direct in the performance of
56 its duties and responsibilities as enumerated in this title. Such offi-

1 cer shall attest under the corporate seal of the authority all certified
2 copies of the office records and files of the authority that may be
3 required of such officer by the provisions of this title or by any
4 person ordering the same and paying the reasonable cost of tran-
5 scription. Any portion of the records so certified and attested shall
6 prima facie import verity. The chief executive officer shall also serve
7 as treasurer of the authority unless a separate treasurer is selected by
8 the authority.

9 5. The authority may employ such attorneys, engineers, agents, assist-
10 ants and employees as may be necessary, and fix their compensation,
11 including the compensation of its treasurer.

12 6. The governor may remove a trustee of the authority for inefficien-
13 cy, neglect of duty or misconduct in office, giving to such trustee a
14 copy of the charges against such trustee and an opportunity of being
15 publicly heard in person or by counsel in such trustee's own defense
16 upon not less than ten days' notice. If such trustee shall be removed,
17 the governor shall file in the office of the secretary of state a
18 complete statement of all charges made against such trustee and the
19 findings thereon, together with a complete record of the proceedings.

20 § 2799-eeee. General duties. 1. (a) (i) Upon its creation the author-
21 ity shall prepare a draft Oswego river basin management plan (hereinaft-
22 er referred to as the "draft basin management plan") for the regulation
23 of the flow of water in the Oswego river basin. Such draft basin manage-
24 ment plan shall show:

25 (1) the existing sites of reservoirs, dams or other flood mitigation
26 structures on such basin, whether any reservoir, dam or other flood
27 mitigation structure now existing can be and should be enlarged and to
28 what extent, and the approximate number of acres of land flowed or to be
29 flowed by each reservoir, dam or other flood mitigation structure;

30 (2) available and feasible sites of reservoirs, dams or other flood
31 mitigation structures on such basin and the approximate number of acres
32 of land to be flowed by each such reservoir, dam or other flood miti-
33 gation structure;

34 (3) whether any of such land identified by items one and two of this
35 subparagraph is owned by the state, if any, and how many acres, the
36 number of acres of private land required, together with the estimated
37 value of the land, and how many acres, if any, of such land are lands of
38 the state within the forest preserve. Such acreage shall include such
39 quantity of land surrounding a reservoir, dam or other flood mitigation
40 structure to be created or enlarged as would in the judgment of the
41 authority be required for the protection, maintenance and operation of
42 such reservoir, dam or other flood mitigation structure for the effectu-
43 ation of the general duties and powers of this title;

44 (4) a system to notify emergency first responders, including the divi-
45 sion of homeland security and emergency services, local police depart-
46 ments and other emergency first responders wholly or partially contained
47 within the Oswego river basin, of high flow and flood flow events, and
48 other emergency events as determined by the authority;

49 (5) other strategies to address any of the general duties enumerated
50 or detailed in this section;

51 (6) a system for the procedure for the monitoring of water flows
52 throughout the whole Oswego river basin; and

53 (7) a map of all disconnected floodplains in the Oswego river basin.

54 (ii) Additionally, the draft basin management plan shall be accompa-
55 nied by such maps, profiles and other data and descriptions as may be
56 necessary to set forth properly the duties detailed in this section.

1 including, but not limited to the location and character of the work and
2 of the property to be taken or damaged and by estimates of cost of each
3 such reservoir, dam or other flood mitigation structure. Further, the
4 draft basin management plan shall use the North American vertical datum
5 of 1988 as a common datum to communicate all elevations. In the case
6 that maps, plans and specifications for any such reservoir, dam or other
7 flood mitigation structure at or near the site thereof are on file in
8 any other department of state government or other state entity and would
9 be an aid in the preparation of such draft basin management plan, such
10 maps, plans and specifications shall be available to the authority for
11 such purpose.

12 (b) The draft basin management plan shall be developed in consultation
13 with the Oswego river basin advisory committee established pursuant to
14 section twenty-seven hundred ninety-nine-ggggg of this title and other
15 stakeholders as determined by the authority.

16 (c) The authority shall hold at least two regional public comment
17 hearings on such draft basin management plan and shall allow at least
18 one hundred twenty days for the submission of public comment prior to
19 the approval of such plan.

20 (d) The authority shall provide meaningful opportunities for public
21 comment from all segments of the population that will be impacted by the
22 draft basin management plan, including a community enrolled in the
23 national flood insurance program.

24 (e) Upon the completion of such draft basin management plan, public
25 hearings and the public comment period, the authority may approve such
26 plan and shall certify such plan by resolution. The authority may, by
27 resolution, chose to modify such plan and approve it as so modified.
28 Once approved by the authority, such plan shall be known as the "offi-
29 cial Oswego river basin management plan" or "official plan" for the
30 regulation of the flow of water in the Oswego river basin. Such plan in
31 like manner may be altered from time to time, provided such alteration
32 shall not affect any assessment already made and such alteration shall
33 only occur after a period of public comment and a public hearing. As
34 soon as practicable, the authority shall make the draft Oswego river
35 basin management plan and the official Oswego river basin management
36 plan available to the public for inspection and examination at every
37 office of the authority and on the authority's website. Digital files
38 of such plans shall also be made available, upon request, to the clerk
39 of each county, city, town or village in which the Oswego river basin or
40 a portion thereof is located.

41 2. The authority shall create and conduct an education and outreach
42 campaign in the Oswego river basin, and in doing so may incorporate
43 strategies from any communication plan developed by the committee.

44 3. Any projects or activities, including the construction of any
45 reservoirs, dams or other flood mitigation structures, undertaken by the
46 authority shall ensure full compliance with article eight of the envi-
47 ronmental conservation law.

48 § 2799-fffff. General powers. 1. The authority shall have power to
49 promulgate rules and regulations necessary for the effectuation of the
50 powers and duties enumerated in this title.

51 2. The authority and its authorized agents may enter upon any lands,
52 as in its judgment may be necessary, for the purpose of making surveys
53 and examinations to accomplish any purpose authorized by this title, and
54 shall be liable only for actual damage done.

55 3. The authority shall have and may exercise all of the powers enumer-
56 ated in this title, and in addition thereto all such other powers as are

1 necessary and proper to carry into execution the powers expressly grant-
2 ed to it, including the power to:

3 (a) make such channel improvements as may be necessary to prevent
4 damage to downstream properties by the waters released from a reservoir,
5 dam or other flood mitigation structure;

6 (b) mitigate any and all flood events;

7 (c) manage and adjust the flow of water in the Oswego river basin;

8 (d) monitor the flow of water in the Oswego river basin; and

9 (e) coordinate and cooperate with emergency management and flood
10 response, if necessary and appropriate.

11 4. Notwithstanding any law, rule or regulation to the contrary, the
12 authority shall have charge of the control, operation, maintenance, and
13 adjustment of water levels of all reservoirs, dams or other flood miti-
14 gation structures currently in existence, or hereafter constructed,
15 along all points and portions of the Oswego river basin for the regu-
16 lation of the flow of water in such basin, including any reservoir, dam
17 or other flood mitigation structure owned, operated, controlled or
18 otherwise overseen by a county, city, town, or village, excluding howev-
19 er:

20 (a) a reservoir, dam or other flood mitigation structure which is or
21 may be maintained primarily to provide water for the canal system of the
22 state, provided however, that the authority may have charge of the
23 control, operation, maintenance, and adjustment of such reservoir upon
24 an agreement or contract between the authority and the canal corpo-
25 ration; and

26 (b) reservoirs owned or operated by a holder of a license issued under
27 the federal power act, provided however, that the authority may have
28 charge of the control, operation, maintenance, and adjustment of such
29 reservoir upon an agreement or contract between the authority and such
30 holder of a license issued under the federal power act.

31 5. The authority shall have the right to establish and maintain stream
32 gauges and rain gauges, and may make such surveys and examinations of
33 rainfall, stream flow and flood conditions, and of other scientific and
34 engineering subjects as may be necessary and proper for the purposes of
35 the authority at any location in the Oswego river basin, and shall
36 preserve a record thereof available to the public on the authority's
37 website. Digital files of such stream gauges and rain gauges shall also
38 be made available, upon request, to the clerk of each county, city, town
39 or village in which the Oswego river basin or a portion thereof is
40 located.

41 6. The authority, subject to the limitations of this title, shall have
42 a dominant right of eminent domain over any right of eminent domain of
43 public corporations. In exercise of such right, the authority shall take
44 due care to ensure no unnecessary damage to other public utilities, and
45 in the case of failure to agree upon the mode and terms of interference,
46 the authority shall take due care not to interfere with any operation
47 and usefulness beyond the actual necessities of the case, and shall pay
48 due regard to other public interests involved.

49 7. The authority shall have power to consent to the transfer of juris-
50 isdiction over lands under its jurisdiction to any state department or a
51 bureau, division or agency thereof, or to any state agency, upon such
52 terms and conditions and under such regulations and restrictions as such
53 authority shall deem just and proper, provided, however, that the use of
54 such lands shall not interfere with the purposes for which they were
55 acquired.

1 8. The authority shall have the power to coordinate with the Onondaga
2 county water authority as established by title seven of article five of
3 this chapter. Further, the authority shall immediately, upon making a
4 request to the Onondaga county water authority, assume all duties and
5 powers of the Onondaga county water authority related to the effectua-
6 tion of the general duties and powers enumerated in this title in order
7 to mitigate flood events in the Oswego river basin, including but not
8 limited to the control, operation, maintenance, and adjustment of water
9 levels of all reservoirs, dams or other flood mitigation structures
10 owned or operated by the Onondaga county water authority. The Onondaga
11 county water authority shall regain all powers and duties ceded to the
12 authority at the end of a flood event, as determined by the authority,
13 or upon the relinquishment by the authority.

14 9. The authority shall have the power to coordinate with an authority
15 established pursuant to title eight-a of article five of this chapter.
16 Further, the authority shall immediately, upon making a request to any
17 such authority established by title eight-a of article five of this
18 chapter, assume all duties and powers of such authority established by
19 such title related to the effectuation of the general duties and powers
20 enumerated in this title in order to mitigate flood events in the Oswego
21 river basin, including but not limited to the control, operation, main-
22 tenance, and adjustment of water levels of all reservoirs, dams or other
23 flood mitigation structures owned or operated by an authority estab-
24 lished by title eight-a of article five of this chapter. An authority
25 established by title eight-a of article five of this chapter shall
26 regain all powers and duties ceded to the authority at the end of a
27 flood event, as determined by the authority, or upon the relinquishment
28 by the authority.

29 § 2799-ggggg. Oswego river basin advisory committee. 1. There is here-
30 by established within the authority the Oswego river basin advisory
31 committee (hereinafter referred to as "the committee"), consisting of
32 twenty-one members to advise the chair of the authority on matters
33 relating to the state's role in managing the Oswego river basin, includ-
34 ing but not limited to regional and federal activities aimed at regulat-
35 ing the flow of water, flood mitigation, the coordination of emergency
36 flood response, domestic, municipal, industrial and agricultural water
37 supplies, navigation, hydroelectric power and energy production, recre-
38 ation, fish and wildlife habitat and a balanced ecosystem.

39 2. The committee shall:

40 (a) advise the chair of the authority on the creation, implementation
41 and modification to the draft Oswego river basin management plan and the
42 Oswego river basin management plan as developed pursuant to section
43 twenty-seven hundred ninety-nine-eeee of this title;

44 (b) advise the members of the Oswego river basin intergovernmental
45 council, as established pursuant to section twenty-seven hundred nine-
46 ty-nine-hhhhh, as needed; and

47 (c) annually identify specific research or program needs for funding
48 from state, federal, private or other sources. Such annual program, with
49 as much detail on the scope and expectations of each project as is prac-
50 tical, shall be submitted to the authority, which shall select specific
51 projects from the program, recommended by the committee, and shall
52 furnish the governor and the director of the division of the budget such
53 estimates and information for inclusion in the budget of the state.

54 3. The governor shall appoint nine members to the committee, with one
55 member representing an institution that performs research on the issues
56 and the problems of the Oswego river basin, one member representing a

1 labor union whose members derive their livelihood from the Oswego river
2 basin, three members representing environmental or conservation organ-
3 izations with interests in the Oswego river basin, two members repres-
4 enting business organizations whose commercial interest lies in activ-
5 ities in or around the Oswego river basin, one member representing a
6 municipality wholly or partially contained within the Oswego river basin
7 and one member representing a county having a population of four hundred
8 fifty thousand people or more wholly or partially contained within the
9 Oswego river basin. The temporary president of the senate and the speak-
10 er of the assembly shall each appoint two members who have a demon-
11 strated knowledge in Oswego river basin issues. The chair of the author-
12 ity, the commissioners of the departments of environmental conservation,
13 health, transportation, and economic development, the director of the
14 canal corporation, the chair of the power authority of the state of New
15 York and the commissioner of the division of homeland security and emer-
16 gency services or their designated representative shall be ex-officio
17 members. The appointed members of the committee shall serve terms of
18 three years, provided, however, that of the members first appointed by
19 the governor, three members shall be appointed for a term of three
20 years, three members shall be appointed for a term of two years and
21 three members shall be appointed for a term of one year. An appointment
22 to fill a vacancy shall be made for the remainder of the affected term
23 in the same manner as the original appointment was made. Such appoint-
24 ment shall be made within sixty days of the date the position becomes
25 vacant. Members shall serve until their successor has been appointed.

26 4. The advisory committee shall meet for the first time within one
27 hundred eighty days after the creation of the authority pursuant to this
28 title, and thereafter shall meet a minimum of three times annually.

29 5. Advisory committee members shall receive no compensation for their
30 services, but shall be reimbursed for their actual and necessary
31 expenses incurred during the performance of their duties.

32 6. The committee shall submit a report by the first of January next
33 succeeding the date this section shall take effect and annually there-
34 after to the governor, the speaker of the assembly and the temporary
35 president of the senate. Such report shall include an evaluation of the
36 problems and conditions of the Oswego river basin, recommendations for
37 the authority and legislative recommendations.

38 7. The committee shall develop a communication plan for high flow and
39 flood flow events and submit such plan and recommendations to implement
40 such plan to the authority, the governor, the speaker of the assembly
41 and the temporary president of the senate. Further, the authority shall
42 make such communication plan available on the website of the authority
43 and share such communication plan with other state entities when
44 requested.

45 § 2799-hhhhh. Oswego river basin intergovernmental council. 1. The
46 authority may establish, by the passage of a resolution, an Oswego river
47 basin intergovernmental council (hereinafter referred to as "the coun-
48 cil") which shall consist of members from any county, city, town,
49 village, school district, local police department, state entity, a hold-
50 er of a license issued under the federal power act, lake association or
51 private entity, or any combination thereof, operating or contained whol-
52 ly or partially within the Oswego river basin. Such establishment of a
53 council shall effectuate the implementation of the authority's general
54 duties or powers and improve coordination or communication with public
55 and private entities which are wholly or partially contained or operate
56 within the Oswego river basin or otherwise improve flood mitigation

1 efforts in the Oswego river basin. When an Oswego river basin intergov-
2 ernmental council is established, such council shall have the power to:

3 (a) make surveys and studies and conduct research programs to aid in
4 the solution of local flood mitigation problems and in efforts to
5 improve authority administration and services;

6 (b) provide for the distribution of information resulting from such
7 surveys, studies and programs created, established or produced by the
8 authority or the council;

9 (c) consult and cooperate with appropriate state, municipal and public
10 or private agencies in matters affecting the powers and duties of the
11 authority; and

12 (d) devise recommendations for obtaining greater economy and efficien-
13 cy in the planning and provision of authority services and provide such
14 recommendations to the authority.

15 2. When a council is established pursuant to subdivision one of this
16 section, the members of the council shall adopt by-laws to govern its
17 activities. The chair of the authority shall be the chair of the coun-
18 cil established by this section and shall appoint members to the coun-
19 cil. Such chair shall select from the members a secretary and other
20 necessary officers to serve for such period as the members shall agree.

21 3. The authority shall provide the council with such facilities,
22 assistance and data as necessary to assist the council to carry out its
23 duties. Additionally, all other agencies of the state or subdivisions
24 thereof may, at the request of the chair, provide the council with such
25 assistance and data as is necessary for the council to carry out its
26 duties.

27 § 2799-iiiiii. Acquisition of real estate. 1. The authority shall,
28 subject to the provisions of this section, have the right to condemn for
29 the use of the authority any real estate which is determined to be
30 necessary for the purpose of carrying out any provisions of this title.
31 It may acquire title to such real estate by agreement with the owner of
32 such real estate and upon payment therefor of the amount of compensation
33 to be paid to such owner. Additionally, the authority may acquire title
34 to real estate by agreement with the owner of such real estate and upon
35 payment therefor of the amount of compensation to be paid such owner for
36 the purpose of restoring a disconnected floodplain in the Oswego river
37 basin.

38 2. If any real estate belonging to any county, city, town, village or
39 school district is required for the purposes of this title, the county
40 legislative body for such county, the mayor and common council or
41 governing body for such city, the town authority for such town, the
42 village authority for such village, the trustees or authority of educa-
43 tion of any school district for such authority, or any persons, body or
44 bodies, having a like power, acting for a public corporation may grant
45 or surrender such real estate for such compensation as may be agreed
46 upon by such official representatives and the authority. The compen-
47 sation agreed upon as thus provided shall be paid to the fiscal officer
48 of the public corporation or the person or persons from whom such real
49 estate is acquired.

50 3. If the authority cannot agree with the owner upon the compensation
51 and damages to be paid for the real estate so acquired, it shall serve
52 upon such owner a notice that such real estate described therein has
53 been acquired by the authority for the purposes of this title, and shall
54 proceed to acquire title of such real estate under the provisions of the
55 eminent domain procedure law.

1 4. If any real property, owned by a corporation having the power by
2 law to exercise the right of eminent domain, is acquired pursuant to the
3 eminent domain procedure law, the authority shall have no right to enter
4 upon and take possession of any such real estate until the owner thereof
5 shall have been paid or tendered the amount due under the final order
6 and judgment in such proceedings, with interest.

7 5. If any such payments are made directly by the authority, the amount
8 so paid shall be refunded to the authority out of the general fund of
9 the authority, as provided in subdivision seven of section twenty-seven
10 hundred ninety-nine-sssss of this title.

11 6. Title to all real estate acquired pursuant to the provisions of
12 this title, except where expressly provided otherwise, shall be acquired
13 in the name of the state of New York, and when so acquired shall be
14 deemed to be acquired for public use.

15 7. All real estate acquired or taken pursuant to the provisions of
16 this title shall be hereby dedicated to the use and purposes for which
17 it is so taken, and the right, title and interest acquired by the state
18 therein shall be so acquired subject to such use and purposes.

19 § 2799-jjjjj. Discontinuance or relocation, or both, of highways,
20 roads and streets. 1. If the authority shall deem it necessary to
21 discontinue a public highway, road or street, or a part thereof, because
22 of its interference with the proper location of a reservoir, dam or
23 other flood mitigation structure, or other facility or structure neces-
24 sary for the effectuation of the duties of the authority, for which
25 preliminary plans shall have been adopted as provided in this title or
26 because of its interference with the effectuation of the duties of the
27 authority established by this title, it may discontinue such public
28 highway, road or street. If the authority shall determine that public
29 interest so requires, it may relocate such highway, road or street, or
30 the part being discontinued, along a course, or if discontinued due to
31 interference with a reservoir, dam or other flood mitigation structure,
32 wholly or partly within or without the high flow line of such reservoir,
33 dam or other flood mitigation structure, and acquire, with funds of the
34 authority applicable to the expense of such reservoir, dam or other
35 flood mitigation structure, in the manner provided in section twenty-
36 seven hundred ninety-nine-iiiiii of this title, the necessary rights of
37 way or easements for such relocated part, or in lieu of such a relo-
38 cation, may establish new highways to connect with then existing high-
39 ways, roads or streets, to afford a substantial equivalent, for purposes
40 of highway traffic, of such a relocation. The determination of the
41 authority to relocate or establish any such highway, road or street
42 shall be by resolution, setting forth a description of the course of
43 such highway, road or street, a certified copy of which shall be filed
44 in the office of the clerk of each city, town and village containing any
45 part of the relocated or new highway, road or street and shall be made
46 available on the authority's website. If the highway, or part thereof,
47 so established or relocated shall be a state or county highway, the
48 resolution shall not be effective until approved by the commissioner of
49 transportation and with such commissioner's written approval appended
50 thereto. From the time of the filing of such copy or copies of the
51 resolution, the relocated or connecting highway shall be deemed duly
52 laid out.

53 2. After having acquired the necessary rights of way or easements
54 therefor, the authority, with its funds, shall construct such relocated
55 or connecting highway, road or street, or part thereof. If the highway,
56 or part thereof, which is discontinued, is a state or county highway, or

1 part thereof, the construction of the relocated or connecting highway
2 shall be in accordance with plans approved by the commissioner of trans-
3 portation. If the highway, or part thereof, which is discontinued is a
4 county road, or part thereof, the construction of the relocated or
5 connecting highway shall be in accordance with plans approved by the
6 county superintendent of highways. In the case of any other highway,
7 road or street, the authority shall construct the same so as to make it
8 conform in kind and quality generally to the discontinued highways,
9 roads and streets.

10 3. The control and maintenance of the relocated or connecting highway,
11 street or road, after its completion, shall vest in the local authori-
12 ties of the city, town or village, in which such highway, street or road
13 or any part thereof is situated, and for such purpose it shall be deemed
14 a highway, road or street of the city, town or village, except that if
15 the highway or road which was discontinued, or the part thereof discon-
16 tinued, was a state or county highway, or county road, the control and
17 maintenance of the relocated or connecting highway or road shall vest in
18 the state or county authorities having charge of the discontinued high-
19 way or road, and for such purpose it shall be deemed a state or county
20 highway, or county road, as the case may be.

21 § 2799-kkkkk. Taxation of real estate. Lands owned by the state and
22 acquired pursuant to the provisions of this title, exclusive of the
23 improvements erected thereon by the authority, shall be assessed and
24 taxed in the same manner as state lands subject to taxation pursuant to
25 title two of article five of the real property tax law. Provided, howev-
26 er, that the aggregate assessed valuations of such lands in any city,
27 town, or village shall not be reduced below the aggregate assessed valu-
28 ations thereof with the improvements thereon at the time of their acqui-
29 sition by the authority, and provided further that in case of a general
30 increase in assessments in any city, town, or village the assessed valu-
31 ations of the lands and improvements at the time of their acquisition by
32 the authority shall be deemed to have been increased proportionately
33 with the increase of other real property in such tax district.

34 § 2799-lllll. Cemeteries. 1. For the purposes of this title, whenever
35 it shall be necessary to use any portion of any lands or premises now
36 occupied by graves, burial places, cemeteries, or other places of inter-
37 ment of human remains, the authority may acquire such lands or premises
38 in the same manner as other real estate may be acquired pursuant to this
39 title. Provided, however, that if lands or premises so occupied and
40 sought to be acquired are not within a cemetery under the actual control
41 and management of a then existing religious or cemetery corporation, and
42 proceedings shall have been instituted by the authority for their acqui-
43 sition under the eminent domain procedure law, the court, if satisfied
44 at any stage of the proceedings that the public interests will be preju-
45 dicied by delay, shall, by order, direct that the authority may enter
46 immediately on such lands and premises, and, after the provisions of
47 subdivisions four, five, six, seven and eight of this section and
48 sections three hundred four and four hundred four of the eminent domain
49 procedure law have been complied with, may dedicate the same to the
50 public use specified in the petition, upon deposit with the court of a
51 sum to be fixed by the court, but no such order shall be made except
52 upon notice of the application therefor served and posted as hereinafter
53 provided.

54 2. Such notice shall be served pursuant to the provisions of this
55 subdivision. If any of the owners or their places of residence are
56 unknown, notice addressed, generally, to all owners of and persons

1 interested in the lands used for graves, burial places, cemetery
2 purposes or places of interment within a certain lot, tract or parcel of
3 land, to be described with sufficient certainty to identify it, shall be
4 published in the time and manner prescribed by subdivisions four, five,
5 six, seven and eight of this section with respect to the notice therein
6 provided for. Owners, if any, whose names and places of residence are
7 known and who reside within the state, shall be served with such notice
8 personally or by leaving the notice at the abode of the owner to be
9 served, with a person of suitable age and discretion residing therein.
10 Owners, if any, whose names and places of residence are known and who
11 reside out of state, shall be served with such notice by mail, the
12 notice to be deposited in a post office in the state, addressed to the
13 owner to be served, and enclosed in a securely sealed postpaid envelope.
14 The notice also shall be posted conspicuously in ten places in each
15 city, town, or village in which the lands are located, at least twenty
16 days before the time of making the application. If the notice is
17 published, the time for making the application shall be not less than
18 eight days nor more than sixteen days after the last publication, and in
19 any case personal service, if any, or service by leaving at the owner's
20 abode, shall be made at least eight days, and service by mail, if any,
21 at least thirty days, before the time of making the application. If, in
22 the condemnation proceeding, an attorney has been appointed by the court
23 to represent defendants served with the original notice by method other
24 than in-person, under the eminent domain procedure law, the notice also
25 shall be served on him or her, at least eight days before the time of
26 making the application.

27 3. The notice shall specify the relief sought and the time and place
28 of making the application. The papers or proofs submitted to the court
29 on the application shall include due proofs of the service and posting
30 of the notice and proof, by affidavit, that the persons, if any, served
31 personally or by leaving at their abodes or by mail constitute all of
32 the owners of and persons interested in the lands so occupied whose
33 names and places of residence are known, or, if none were so served,
34 that all of the owners are unknown, and if certain owners were known but
35 not their places of residence, and therefore were not served, personally
36 or by mail, that fact and the names of such owners shall be stated. Such
37 affidavit shall also set forth the extent of the inquiry to ascertain
38 the names and places of residence of the owners. The provisions of the
39 eminent domain procedure law applicable subsequent to the deposit of
40 such moneys shall apply hereto, except that the general fund of the
41 authority shall be liable for the payment of any deficiency judgment
42 rendered pursuant to such section.

43 4. Once the authority has acquired title, or the right of immediate
44 entry to real estate, the authority shall publish in two newspapers in
45 the county where such burial place, cemetery or graves are situated,
46 which shall in its judgment be best calculated to notify the persons or
47 parties interested or entitled to such notice, which notice shall
48 describe the location of such burial place, cemetery or grave in such
49 manner as to sufficiently identify the same. Such publication shall be
50 made once in each week in each of the newspapers for a period of four
51 weeks, and such notice shall also contain a statement to the effect that
52 any person or persons legally entitled to direct as to the disposition
53 of any such remains may remove the same to any other cemetery or burial
54 place within sixty days after the last publication of such notice, if
55 they so elect, but without expense to the authority therefor. From and
56 after the period of sixty days from the last date of publication, the

1 authority shall advertise in a newspaper published in the county or
2 counties in which the cemetery or cemeteries are situated for bids for
3 the removal of such remains by contract and their proper reinterment.

4 5. All removals and transportation of such human remains shall be done
5 in accordance with the provisions of the public health law and the local
6 rules or ordinances of any town, city or village wherein such cemetery,
7 burial ground or graves shall be located or wherein any of such remains
8 may be reinterred. The authority may acquire such other lands as it
9 deems necessary within the county or in an adjoining county where such
10 burial place, cemetery or graves are now located for the purpose of
11 properly reintering such removed remains, which lands shall be acquired
12 in the same manner as provided by this title for the acquisition of real
13 estate, and title shall be taken in the name of the authority pursuant
14 to the requirements of this title, but lands shall not be acquired with-
15 in the corporate limits of a village or city except within the bounds of
16 an existing cemetery unless by consent of the authority of trustees of
17 the village or common council of the city or other authorities within
18 such village or city occupying similar positions as trustees or alder-
19 men, respectively.

20 6. The lands so acquired shall be suitable and properly fenced or
21 enclosed, and in such manner as to permit proper ingress and egress
22 thereto before the final completion and payment for such work, and the
23 expense therefor shall be included within the estimate and contract for
24 such removal. All bodies removed by order of the authority shall, when
25 distinguishable, be encased each in a separate box or coffin, and each
26 monument, headstone, footstone, slab or other designation or distin-
27 guishing mark shall be properly removed and reset at the grave of each
28 body at the time of such reinterment. Members of the same family shall
29 be interred in contiguous graves.

30 7. Whenever any person or persons legally entitled to direct as to the
31 disposition of any remains now interred in such cemeteries, burying
32 place or graves shall request the authority, in writing, to reinter such
33 remains in any other cemetery or burial plot, within the same county
34 where such cemetery, burial place or graves sought to be removed are
35 located or in an adjoining county, the authority shall cause such
36 remains to be interred where requested within the same county or in an
37 adjoining county, and shall carefully and properly remove such remains
38 to such burial plot and properly reinter the same, but no payment shall
39 be made for a grave or graves or burial plot for such reinterment other
40 than that acquired by the authority pursuant to this title. Whenever any
41 person or persons legally entitled to direct as to the disposition of
42 any human remains exhumed or to be exhumed from any cemetery, burial
43 place or graves as herein provided desire to remove the same for rein-
44 terment to any burial plot or cemetery not within the same county from
45 which such remains were exhumed or in an adjoining county as herein
46 provided, such person or persons so entitled to designate such other
47 burial place or plot shall be permitted to remove such exhumed remains
48 from such county, subject to the written consent of the authority and
49 the provisions of the public health law, and the local rules or ordi-
50 nances of any town, city or village wherein such cemetery, burial ground
51 or graves shall be located, or wherein such human remains may be rein-
52 terred, but no portion of the expense of such transportation or burial
53 in another county other than an adjoining county shall be borne by the
54 authority. The authority shall pay all expenses connected with such
55 removal, out of the general fund of the authority in the same manner as
56 other payments are made.

1 8. Whenever any lands are acquired by the authority for the purposes
2 of reinterment of human remains, and all the remains so interred have
3 been exhumed from a cemetery, burial place or grave belonging to a
4 corporation organized under the religious corporations law, the member-
5 ship corporations law, the not-for-profit corporation law, or by special
6 act, or belonging to a town or authority of trustees elected pursuant to
7 the provisions of the town law, or to a village or city, the authority
8 shall by a proper resolution, after completion and acceptance thereof
9 and final payment for all work performed as provided in this section,
10 execute and deliver in the name of the authority, and without expense to
11 the grantee therefor, to the trustees or other governing body of such
12 corporation, by whatsoever name or title they may hold office, or to the
13 authority of trustees of a town burial ground, or to a duly incorporated
14 cemetery association, and to their successors in office, a quitclaim
15 deed covering the lands so acquired, together with all structures
16 erected thereon. Where such lands were so acquired for the purposes of
17 reinterment of human remains exhumed from a public or private cemetery,
18 burial place or grave which shall have been used by the inhabitants of
19 any town in this state as a cemetery or burial ground for a period of
20 fourteen years and not having an authority of trustees pursuant to the
21 provisions of the town law, the authority shall by proper resolution,
22 after completion and acceptance thereof, and final payment for all work
23 as by this section provided, execute and deliver in the name of the
24 authority, and without expense to the grantee therefor, a quitclaim deed
25 or other proper release to such town wherein such lands so acquired as
26 provided by this section may be situated, and such cemetery or burial
27 place shall at the time of and after the execution and delivery thereof
28 be deemed to be vested in such town, and shall be subject in the same
29 manner as other corporate property of towns, to the government and
30 direction of the electors in town meeting, except, however, that where
31 such lands so acquired for the purposes set forth in this section are
32 situate within the corporate limits of a village or city, such quitclaim
33 deed or release herein provided for shall be executed and delivered to
34 such village or city and thereafter be and become the property of such
35 village or city and subject to the laws governing such village or city.
36 Further, the authority, subject to the approval of the town authority,
37 or city or village authorities herein referred to, shall have the right
38 to convey such lands so acquired, together with all structures erected
39 thereon, to a duly incorporated cemetery association. On and after the
40 date of the execution and delivery by the authority of the quitclaim
41 deed or release, the authority shall be deemed to be divested of all
42 rights and title to such lands transferred by the quitclaim deed or
43 released and shall thereafter not be liable for the care, custody, main-
44 tenance and control thereof. This section shall not limit any existing
45 rights of burial, or removal of remains under other provisions of law
46 applicable thereto.

47 § 2799-mmmmm. Procedure for construction of reservoirs, dams and other
48 flood mitigation structures. 1. Preliminary plans, specifications, maps,
49 statements and estimates are required as follows:

50 (a) If the authority shall determine as a part of an official plan or
51 before the official plan has been prepared that the public interest or
52 welfare requires that a reservoir, dam or other flood mitigation struc-
53 ture should be constructed for the regulation of the flow of a river or
54 rivers, stream or streams of the Oswego river basin, or any other
55 portion of such basin, it shall cause to be prepared preliminary plans
56 and specifications of such reservoir, dam or other flood mitigation

1 structure with estimates of the total cost thereof, together with a
2 survey of the lands upon which the same is to be constructed, giving the
3 location thereof, and of all lands to be taken, flowed or damaged, with
4 a description by survey or otherwise, showing the amount of lands
5 belonging to the state and to persons or public corporations and the
6 amount of lands of the state in the forest preserve affected thereby.

7 (b) The authority shall create a map showing all such lands, the
8 number of acres in each separate tract, and the names of the owners and
9 occupants thereof, so far as the authority can ascertain such informa-
10 tion. Such maps shall also show the high flow lines of the proposed
11 reservoir, dam or other flood mitigation structure, if applicable.

12 (c) The authority shall also prepare a statement of the amount of
13 waterpower, if any, which consistent with the proper regulation of the
14 flow of the river or stream may be developed at or by reason of such
15 reservoir, dam or other flood mitigation structure by the withdrawal of
16 water for power purposes directly therefrom with an estimate of the
17 value thereof. The authority shall also prepare a statement showing the
18 public corporations and locality of lands to be benefited by such
19 improvement and how and whether the state will be benefited thereby and
20 the public necessity for the improvement.

21 (d) In the event that any of the real estate required for such reser-
22 voir, dam or other flood mitigation structure shall belong to the state,
23 the value thereof shall be determined in the applicable estimates, and
24 in the event that such land is outside the forest preserve and the state
25 is chargeable with any proportion of the expenses, such value shall be
26 deducted from the amount to be paid by it, and shall be chargeable as a
27 part of the expenses of the improvement.

28 (e) When the authority shall have completed such preliminary plans,
29 maps, specifications, estimates and statements, it shall vote by resol-
30 ution on such preliminary plans, maps, specifications, estimates and
31 statements. The authority shall file such preliminary plans, maps, spec-
32 ifications, estimates and statements so approved in the office of the
33 county clerk of each county having lands within the Oswego river basin,
34 and make them available on the website of the authority.

35 2. Upon the completion and filing of such preliminary plans, maps,
36 specifications, estimates and statements pursuant to subdivision one of
37 this section, the authority shall give notice of such filing and shall
38 hold hearings thereon in the manner set by the authority that shall
39 include at least two public hearings and offer at least one hundred
40 twenty days of public comment.

41 3. Upon the completion of such hearings, the authority shall determine
42 whether the public welfare requires that such proposed improvement
43 should be proceeded with, and what, if any, modifications should be made
44 in such plans, maps, specifications, estimates and statements. If the
45 authority shall determine that such maps, plans, specifications, esti-
46 mates and statements should be modified in any respect, it shall certify
47 its proposed modifications. If the authority shall determine that the
48 proposed reservoir, dam or other flood mitigation structure shall be
49 made, it shall make a final order directing the same to be made, and
50 shall cause such final order or certified copies thereof to be filed and
51 recorded in the office of the county clerk of each county in which any
52 lands within the Oswego river basin are located, and made available on
53 the website of the authority, and notice shall have been determined to
54 be provided by publication of the making and filing of such final order.

55 4. Any person or public corporation affected by any determination of
56 the authority may review such final determination in the manner provided

1 by article seventy-eight of the civil practice law and rules. Unless
2 application shall be made for such review within sixty days after the
3 filing of the final order, the plans, maps, specifications, statements
4 and estimates shall be the established and final plans, maps, specifica-
5 tions, statements and estimates of such reservoir, dam or other flood
6 mitigation structure. In the event that upon such review there shall be
7 any modification by the court of the final order, maps, plans, specifi-
8 cations, statements and estimates, the court shall direct the modifica-
9 tion thereof by order, and the authority shall cause such order to be
10 filed and recorded in each place where the final order was filed and
11 recorded, and made available on the website of the authority. No review
12 of the final determination of the authority shall be had unless at the
13 time of the application for review the person or public corporation
14 seeking such review shall give an undertaking approved by the supreme
15 court or a justice thereof, as to form, amount, and sufficiency or sure-
16 ties that in the event of failure to modify the final determination,
17 such person or public corporation will pay to the authority all such
18 costs and expenses as are incurred by it on account of the review
19 proceedings, as shall be determined by the court.

20 5. The authority shall have power to make such changes in the final
21 maps, plans and order as the nature of the work may require, provided
22 that the authority shall give notice and shall give a hearing thereon as
23 previously held and the same proceedings shall be had as provided by
24 subdivisions two, three and four of this section, and made available on
25 the website of the authority.

26 6. In the event that in any such plans, estimates and statements, a
27 charge is made against the state for any share of the expenses of the
28 proposed reservoir, dam or other flood mitigation structure, not includ-
29 ing such preliminary expenses as may have been necessary or expenses
30 consisting only of assessments against the state on account of benefits
31 from the improvement, no such reservoir, dam or other flood mitigation
32 structure shall be made under this title pursuant to any such final
33 order until the legislature shall make an appropriation to pay the
34 state's share of such expenses. The sum so appropriated shall be paid
35 into the general fund of the authority for which it is appropriated.

36 7. When any such final order shall have been made, and the legislature
37 shall have made an appropriation for any share of the expense payable by
38 the state, if any, the authority shall proceed to the acquisition of
39 such real estate as may be necessary for the construction, maintenance
40 and operation of such reservoir, dam or other flood mitigation struc-
41 ture. When proceedings are taken under the eminent domain procedure
42 law, the authority shall file in the comptroller's office a certified
43 copy of the final order provided for in the eminent domain procedure
44 law, and a certified copy of the judgment therein rendered pursuant to
45 the eminent domain procedure law, together with the certificate of the
46 attorney general that no appeal from such final order and judgment has
47 been made, or will be taken by the state, or if an appeal has been
48 taken, a certified copy of the final judgment of the appellate court.
49 Payments of the amount due upon such final order and judgment with
50 interest from the date of the judgment until thirty days after the entry
51 of such final order and judgment, and payments for real estate taken by
52 agreement, shall be made from the general fund of the authority.

53 8. Construction work shall be undertaken in accordance with the
54 following provisions:

55 (a) After any such final order shall have been made and filed as
56 provided pursuant to this section, the authority may proceed to

1 construct the work according to the applicable plans and specifications.
2 All such work shall be done pursuant to a contract or contracts which
3 shall be awarded to the lowest responsible bidder, by sealed proposals
4 publicly opened, after public advertisement and upon such terms and
5 conditions as the authority shall require, provided, however, that the
6 authority may reject any and all proposals and may advertise for new
7 proposals, as herein provided, if in its opinion the best interests of
8 the authority will thereby be promoted. Provided further, that at the
9 request of the authority, all or any portion of such work, together with
10 any engineering required by the authority in connection therewith, shall
11 be performed by the chair and the chair's subordinates as agents for,
12 and at the expense of, the authority. A sealed proposal may be accepted
13 through an electronic platform established or used by the authority,
14 provided that any sealed proposal received electronically shall be made
15 public at the same time as any competing paper proposal, and provided
16 further that the authority shall, at minimum, provide the same opportu-
17 nity and time for submitting sealed proposals physically as for sealed
18 proposals submitted electronically and shall provide the opportunity for
19 bidders to submit sealed proposals physically any time that it provides
20 the opportunity to submit sealed electronic proposals. In addition, the
21 authority shall establish a process for accommodating force majeure
22 events that prevent the submission of a sealed electronic proposal,
23 including but not limited to internet and power outage events, and for
24 automatically confirming receipt of any sealed electronic proposal
25 received. All bidders shall be notified of the time and place of any
26 such adjournment or rejection.

27 (b) Every proposal shall be accompanied by a deposit in the form of a
28 certified check upon some national or state bank or trust company within
29 the state in good credit and payable to the authority for five per cent
30 of the amount of the proposal. In the event the proposer to whom such
31 contract shall be awarded shall fail or refuse to enter into such
32 contract within the time fixed by the authority, such deposit shall be
33 forfeited to the authority and paid into and become a part of the
34 authority's general fund. In the event the contract be made such deposit
35 shall be returned to the contractor.

36 (c) Before entering into any such contract, a bond with sufficient
37 sureties approved by the authority shall be required, on the condition
38 that the contractor shall perform all work within the time prescribed in
39 and in accordance with the plans and specifications, and will pay to the
40 state and the authority all damages, costs and expenses suffered or
41 incurred by reason of the neglect or default of such contractor or such
42 contractor's employees or any subcontractor or such subcontractor's
43 employees in the performance of such contract or in doing such work
44 thereunder.

45 (d) Such contract may provide for partial payments to be made from
46 time to time upon the certificate of the engineer in charge of the work
47 after due inspection thereof for an amount not exceeding ninety percent
48 of the contract price for the work actually done as shown by the certif-
49 icate. Such certificate shall state the amount of the work performed and
50 its total value, at the price fixed by such contract, but in all cases
51 not less than ten percent of the estimate thus certified shall be
52 retained until the contract is completed and approved by the engineer in
53 charge of the work and by the authority.

54 (e) The authority may divide the work into several parts and award
55 separate contracts therefor. If the estimated cost of any part of such
56 work does not exceed one million dollars, the authority may by resol-

1 ution proceed to do such part of such work by its own forces or other-
2 wise.

3 (f) The authority may, subject to coordination with and approval from
4 the department of environmental conservation, dispose of merchantable
5 timber and salable wood on state land. No reservoir, dam or other flood
6 mitigation structure shall be constructed until procedures shall have
7 been made by the authority for the clearing from the reservoir, dam or
8 other flood mitigation structure site of all timber and all timber
9 growth on lands to be flowed, which such timber and timber growth shall
10 be removed by the authority by contract or otherwise. The authority
11 shall not permit any stump higher than twelve inches above the bed of
12 the reservoir, dam or other flood mitigation structure adjacent thereto
13 to remain upon a reservoir, dam or other flood mitigation structure site
14 above the low flow line of the reservoir, dam or other flood mitigation
15 structure, if applicable.

16 (g) All merchantable timber and salable wood on state land to be
17 flowed shall be sold by the authority in such manner as it shall deem
18 best for the interests of the state and in coordination with and
19 approved by the department of environmental conservation, but in no
20 event for a sum less than its fair market value, provided, however, that
21 the authority may in its discretion sell any such merchantable timber or
22 salable wood at public auction after due advertisement. The proceeds of
23 any sale or disposition less the expenses thereof and the reasonable
24 cost of inspecting, scaling, lumbering, cutting and piling, if any,
25 incurred by the authority, shall be paid into the general fund of the
26 state. The authority, in coordination with and approved by the depart-
27 ment of environmental conservation may designate the trees or kinds of
28 trees to be considered merchantable timber or salable wood.

29 (h) In preparation of the reservoir, dam or other flood mitigation
30 structure site, the authority shall do such work as may be necessary to
31 prevent stagnant pools above the low flow line thereof.

32 § 2799-nnnnn. Operation of reservoirs, dams or other flood mitigation
33 structures. 1. The authority shall not permit the water in any reser-
34 voir, dam or other flood mitigation structure constructed, owned, oper-
35 ated, controlled or regulated under the provisions of this title to rise
36 above the high flow line thereof, except during floods or other emergen-
37 cies, and if during floods or other emergencies the water shall rise
38 above such high flow line the authority shall immediately open the
39 outlet gates in such reservoir, dam or other flood mitigation structure
40 and take such other actions as may be necessary to lower the water to
41 the high flow line of such reservoir, dam or other flood mitigation
42 structure with the least practicable delay. The authority shall keep an
43 accurate and, so far as practicable, continuous record of the height of
44 water in each reservoir, dam or other flood mitigation structure and
45 shall install and maintain at suitable places such gauges or instruments
46 as may be necessary therefor. Such continuous record shall be made
47 available on the website of the authority.

48 2. Except for inspections or repairs which are necessary, no reser-
49 voir, dam or other flood mitigation structure shall at any time be drawn
50 off below the low flow line, or to such extent as to expose isolated
51 pools which may cause unsanitary conditions, unless due provision is
52 made for draining such pools into the lowest water level of such reser-
53 voir, dam or other flood mitigation structure. It shall be unlawful for
54 any officer or person in charge of any reservoir, dam or other flood
55 mitigation structure to violate the provisions of this section.

1 3. It shall be unlawful for any person to open or close or cause to be
2 opened or closed a gate or gates in any reservoir, dam or other flood
3 mitigation structure constructed, owned, operated, controlled or regu-
4 lated pursuant to the provisions of this title without the consent of
5 the authority, or for any person to interfere in any way with the opera-
6 tion of, or cause damage to, dam or other flood mitigation structure.

7 4. When the flow of a river used for the operation of a power plant
8 falls below the average normal flow thereof, the natural flow of the
9 river at a reservoir, dam or other flood mitigation structure thereon
10 shall not be restricted without the consent of the owner of such power
11 plant.

12 5. No reservoir, dam or other flood mitigation structure shall be
13 constructed pursuant to the provisions of this title of a capacity
14 greater than is required to maintain the average flow.

15 6. The expense of maintenance and operation of any existing reservoir,
16 dam or other flood mitigation structure shall be paid pursuant to exist-
17 ing law until such reservoir, dam or other flood mitigation structure is
18 taken over by the authority pursuant to the provisions of this title,
19 and thereafter such expense shall be paid pursuant to the provisions of
20 this title for the maintenance and operation of a reservoir, dam or
21 other flood mitigation structure.

22 7. A holder of a license issued under the federal power act shall be
23 exempted from the requirements of this section unless an agreement or
24 contract has been made between such holder and the authority.

25 § 2799-ooooo. Apportionment of cost. 1. The authority shall, as soon
26 as practicable, prepare an estimate of the total cost of such reservoir,
27 dam or other flood mitigation structure, or combination thereof, includ-
28 ing interest on certificates of indebtedness issued prior to the date
29 the local finance law took effect, or on notes to the maturity thereof
30 and compensation for real estate and all damages suffered by reason
31 thereof and all expenses necessarily incurred or to be incurred in
32 connection therewith, and shall make a complete and verified statement
33 thereof.

34 2. The authority shall then apportion such cost, less the amount which
35 may be chargeable to the state, among the public corporations and
36 parcels of real estate benefited, in proportion to the amount of benefit
37 which will inure to each such public corporation and parcel of real
38 estate by reason of such reservoir, dam or other flood mitigation struc-
39 ture, or combination thereof. Such apportionment shall be made in writ-
40 ing and shall show the name of each public corporation and a brief
41 description of each parcel of real estate benefited, the name of the
42 owner, or owners, of each such parcel of real estate, so far as can be
43 ascertained, the proportion of such cost less the amount which may be
44 chargeable to the state to be borne by each, expressed in decimals, and
45 the amount to be paid by each such public corporation or the owner or
46 owners of each such parcel of real estate.

47 3. Such amount shall be determined by multiplying the total cost less
48 the amount which may be chargeable to the state by the decimal amount
49 representing the proportion thereof to be borne by each public corpo-
50 ration or parcel of real estate.

51 4. The authority, before making such apportionment, shall view the
52 premises and public corporations benefited. Such apportionment shall be
53 approved by the authority. Upon such approval by the authority, a copy
54 thereof shall be served upon the chair or other presiding officer of the
55 county legislative body of each county, the mayor of each city, the
56 supervisor of each town, and the mayor of each village, named in the

1 apportionment, or if service cannot be had upon such chair, mayor, or
2 supervisor, then upon a member of the county legislative body of the
3 county, a councilmember of the city or member of the governing authority
4 thereof, a member of the town authority of the town, or a trustee of the
5 village, and shall be filed in the office of the county clerk of each
6 county in which any public corporation or real property thereby affected
7 is located. After such service and filing of such apportionment and
8 determination, notice shall be given by the authority of publication of
9 a time and place where the authority will meet to hear any public corpo-
10 ration or person aggrieved by the same. The affidavit of the person
11 servng or publishing such notice shall be evidence of such service or
12 publication.

13 5. The authority shall meet at the time and place specified pursuant
14 to subdivision four of this section and shall hear all persons and
15 public corporations interested in or aggrieved by such apportionment and
16 may approve or modify the same. If such apportionment and determination
17 is modified by the authority it shall not become effective until served
18 and filed in the same manner as upon the completion of the same in the
19 first instance. Any public corporation or any person deeming to be
20 aggrieved may, upon notice to the authority, review the determination of
21 the authority in the same manner as a review of the determination of an
22 authority of assessors in making an assessment. Such apportionments as
23 so modified and as further modified by any final judgment or order made
24 in proceedings to review the same as herein provided shall be final and
25 conclusive.

26 6. The amount of the total cost and expense of such reservoir, dam or
27 other flood mitigation structure, or combination thereof, and the main-
28 tenance and operation thereof including the amount of a reasonable
29 return to the state as herein provided for, which each such public
30 corporation and each such parcel of real estate is to pay and be respon-
31 sible for shall be based upon the proportion of cost as determined in
32 such apportionment. If the total cost of such reservoir, dam or other
33 flood mitigation structure shall exceed the estimate made and appor-
34 tioned as provided pursuant to this title, the amount of such excess
35 cost, less the amount which may be chargeable to the state, shall be
36 apportioned among the public corporations and parcels of real estate
37 benefited, by an additional apportionment to be made in the same manner
38 and by the same procedure as the original apportionment, and shall be
39 levied, assessed and collected in the manner provided in section twen-
40 ty-seven hundred ninety-nine-ppppp of this title. Such apportionment
41 and determination, when made, shall also be deemed to fix and determine
42 the apportionment and the basis of apportionment of all subsequent
43 expenses to be incurred in the maintenance and operation of such reser-
44 voir, dam or other flood mitigation structure, including the amount of a
45 reasonable return to the state, if any, as provided for in this title.

46 7. If powers be developed after such apportionment has been made or if
47 for any other reason any public corporation or any parcel of real estate
48 becomes liable equitably for such subsequent expenses, a subsequent
49 apportionment may be made in the same manner and subject to the same
50 review as the original apportionment. Provided, however, that before any
51 such apportionment of costs or any assessment is made by the authority,
52 public corporations or owners of property liable for the same may
53 execute and deliver to the authority a consent, executed and acknowl-
54 edged in like manner as a deed, by which they acknowledge that they are
55 the public corporations and owners of property benefited by the improve-
56 ment and consent to bear the cost thereof, less any sum previously

1 appropriated by the state therefor, together with charges provided for
2 in section twenty-seven hundred ninety-nine-qqqqq of this title, and to
3 have the same assessed against them or their property as provided for in
4 this title. Such consent may also provide, as a condition of its
5 acceptance by the authority, for the basis on which the assessment for
6 the improvement shall be made upon the parties consenting.

7 8. The authority may accept or reject such consent. If it accepts such
8 consent it shall, by resolution, provide for the levy of the entire
9 assessment upon the public corporations and property of the parties
10 filing such consent, on the basis of benefits received, if any, deter-
11 mined by the terms of the consent, or if no basis of assessment be fixed
12 by the consent, on the basis of the benefits shared by such parties in
13 the manner provided in this title. If such consent be accepted by the
14 authority, a certified copy thereof shall be filed by the authority in
15 the office of the county clerk of each county in which any public corpo-
16 ration or real property affected by the assessment is located. Such
17 consent, when executed by a public corporation, shall be authorized by
18 the governing body thereof.

19 § 2799-ppppp. Assessments; how levied and collected. 1. After the
20 apportionment of cost has been made and filed in accordance with the
21 provisions of section twenty-seven hundred ninety-nine-ooooo of this
22 title, the authority shall prepare a statement showing the name of each
23 public corporation and a description of each parcel of real estate bene-
24 fited by such reservoir, dam or other flood mitigation structure, or
25 combination thereof, and the amount to be borne by each as determined in
26 such apportionment. The authority shall also determine and state whether
27 the amounts shall be paid in one lump sum or in annual installments, in
28 such amounts as the authority shall annually determine to be necessary.

29 2. A copy of such statement duly verified under the seal of the
30 authority shall be filed with the clerk of each county, town, village or
31 city affected or containing any real estate which is benefited. The
32 clerk of every such county, city, town or village shall make and deliver
33 to the legislative body of such county, the common council of such city,
34 the authority of trustees of such village, and the assessors of such
35 county, town, city or village a copy of such statement.

36 3. The county legislative body of every such county shall levy and
37 assess upon such county and upon each town specified in such statement
38 the amount of such cost and expense which in such statement is certified
39 to be the proportion thereof which should be borne by such county or
40 such town as a whole, and the common council or other governing body of
41 each city and the authority of trustees of every such village shall in
42 like manner levy and assess upon such city and village, respectively,
43 the amount of such cost and expense which in such statement is certified
44 to be the proportion thereof which should be borne by such city and
45 village. The assessors of each town or city, containing individual real
46 estate upon which a proportion of such cost is assessed, shall enter on
47 a separate page of their assessment roll a statement of the total amount
48 to be paid by the owner of such individual real estate, a description of
49 each parcel and what constitutes real estate as such term is defined in
50 this title and the amount chargeable thereto, as contained in the state-
51 ment filed. The county legislative body of each county wherein such
52 property or land is situate shall levy and assess against each such
53 parcel and each such piece of real estate the amount specified in the
54 statement, and shall by their warrant direct the collection thereof in
55 the same manner and by the same procedure as general taxes are
56 collected. In the case it is determined that the amount is to be paid in

1 annual installments, the county legislative body or the assessors of the
2 city, town or village, as the case may be, shall annually assess the
3 annual installment to be paid by such county, city, town or village in
4 the manner provided by this section until the whole amount shall be
5 paid.

6 4. Upon the assessment of the cost as provided in this section, the
7 amounts apportioned and assessed shall be paid and remain charges
8 against the several public corporations and liens upon the several prop-
9 erties charged therewith, until paid or otherwise removed, superior in
10 force and effect to all other liens except unpaid general taxes. All
11 moneys collected under the provisions of this section shall be paid to
12 the county treasurer of the county benefited or the county in which the
13 town, city, village or real estate is located who shall pay the same on
14 or before the first day of June in each year to the state comptroller,
15 who shall deposit such amount in depository banks to the credit of the
16 several funds of such authority as herein provided. In the event it has
17 been determined that the cost of the improvement shall be paid in
18 installments, interest for one year at a rate not higher than the rate
19 of interest secured by the obligations to which the assessments are
20 applicable, and not more than sufficient to pay the same, shall be added
21 to the amount of each installment, on the cost of the improvement less
22 the installment or installments previously levied or assessed, and be
23 collected in the same manner provided for the collection of the princi-
24 pal of the assessment. In the case of default of payment of assessments
25 or any installment thereof levied as herein provided, the same penalties
26 shall be collected as are provided in the case of failure to pay general
27 taxes within the time prescribed by law, and when collected shall be
28 deemed a part of the assessment.

29 5. If the assessment, together with the amount appropriated by the
30 state, be insufficient to pay the obligations issued on account of such
31 improvement, the authority shall make a new assessment or assessments,
32 as the case may be, to make up the deficiency, and the owner and holder
33 of any obligations issued under this title may by appropriate remedy
34 compel the assessment of such deficiency.

35 6. Notwithstanding the provisions of subdivision four of this section,
36 all moneys required to be collected under the provisions of this section
37 may be paid directly to the authority, provided such payment is made
38 prior to the thirty-first day of October of the year in which the
39 assessment is levied. Any direct payments received by the authority
40 shall be forwarded by the authority to the state comptroller, who shall
41 deposit such payments in depository banks to the credit of the several
42 funds of such authority as herein provided. Upon receipt of any such
43 direct payments, the authority shall notify the appropriate county trea-
44 surer to whom such payments would have been made under subdivision four
45 of this section, had direct payment not been made to the authority. All
46 moneys required to be collected and not paid directly to the authority
47 by the thirty-first day of October of the year in which the assessment
48 is levied shall be payable to the county treasurer as provided under
49 subdivision four of this section and shall be subject to a service fee
50 of one percent of the total amount assessed, which shall be added to the
51 amount to be collected and which shall be in addition to any penalties
52 which may be imposed in the case of failure to pay general taxes within
53 the time prescribed by law and when collected, such penalties shall be
54 deemed a part of the assessment. All service fees collected by county
55 treasurers pursuant to this subdivision shall be retained by the county
56 treasurer and deposited in the general fund of the county, provided the

1 moneys collected under the annual assessment installment shall be paid
2 to the state comptroller within thirty days of their receipt by such
3 county treasurer. Otherwise, the county treasurer shall pay over the
4 entire service fee collected to the state comptroller for deposit to the
5 credit of the several funds of the authority in the same manner as
6 moneys collected under the annual installments of the assessments
7 provided for herein.

8 § 2799-qqqqq. Operation and maintenance charges. 1. The authority
9 shall make an estimate of an amount sufficient to pay the expense of the
10 maintenance and operation of the works erected pursuant to this title,
11 including interest on temporary certificates of indebtedness issued
12 prior to the date the local finance law took effect. A reasonable return
13 to the state upon the value of the rights and property of the state used
14 shall mean six percent upon the value of the lands flowed, exclusive of
15 merchantable timber and salable wood removed therefrom for which the
16 state shall have been paid as provided by subdivision eight of section
17 twenty-seven hundred ninety-nine-nnnnn of this title. The value of the
18 services of the state rendered shall be construed to mean the actual
19 cost thereof.

20 2. Any amount so estimated pursuant to subdivision one of this section
21 shall be the estimated amount required for such purposes each year, and
22 when fixed and determined shall be the amount thereof for a period of
23 three years. The amount shall be adjustable at the end of any three-
24 year term. The amount less any part thereof to be paid by the state
25 shall be the amount to be annually collected for such purposes, and
26 shall be apportioned upon the public corporations and real estate bene-
27 fited according to the benefits derived therefrom respectively, and
28 shall be levied, assessed and collected in the same manner as the cost
29 and expenses of the reservoir, dam or other flood mitigation structure,
30 or combination thereof, as provided in this title to be levied, assessed
31 and collected.

32 3. Such estimates and determinations as from time to time fixed and
33 determined by the authority may upon application of any party affected
34 thereby be reviewed in the manner provided by article seventy-eight of
35 the civil practice law and rules by the supreme court of the judicial
36 district in which the reservoir, dam or other flood mitigation struc-
37 ture, or combination thereof, is located. Upon the hearing on such
38 application for review, the court shall take the testimony and other
39 proofs of the parties and may make an order affirming, vacating or modi-
40 fying any such estimate and determination.

41 § 2799-rrrrr. Error in names. No error in the names of the owners of
42 real estate, or in the descriptions thereof, shall invalidate such
43 apportionment or the levying of assessments or taxes based on such error
44 if sufficient description is given to identify such real estate, and the
45 owners thereof.

46 § 2799-sssss. Financing. 1. After the cost of any improvement made or
47 to be made pursuant to this title has been apportioned among the public
48 corporations and parcels of real estate benefited and after such appor-
49 tionment has been assessed upon such public corporations and parcels of
50 real estate, the authority may finance the cost of any such improvement
51 in accordance with the local finance law. Any bonds issued for such
52 purposes shall not be construed, in any event, as bonds or indebtedness
53 of the state, and the state shall not be obligated to pay the principal
54 or interest on such bonds. Such bonds shall be lawful investments for
55 trustees and savings banks of the state and for any of the funds of the
56 state which by law may be invested.

1 2. The authority shall annually include in the installment of the
2 assessment to be collected in such year a sum sufficient to provide for
3 the payment of the principal of and interest on obligations issued for
4 such purposes and maturing in such year.

5 3. The proceeds of the sale of obligations issued for the purposes of
6 this title, together with all other revenues of the authority from other
7 sources, shall be deposited in a national or state bank or banks or
8 trust company or trust companies in Albany or within the Oswego river
9 basin as are approved by the state comptroller, subject to the
10 provisions of section 165.00 of the local finance law. Before any such
11 deposit is made, the state comptroller shall require from any such bank
12 or trust company security for repayment of the same to such authority or
13 to the state comptroller upon demand for the money so deposited in the
14 manner provided in section one hundred six of the state finance law. For
15 purposes of this title, the "general fund" of the authority shall mean
16 and consist of all moneys received by the authority under the provisions
17 of this title, except from assessments levied to pay the cost of
18 construction.

19 4. All moneys received from assessments levied to pay the cost of
20 construction, together with such part of any surplus in the general
21 fund, as shall be determined by the authority, over and above the
22 requirements for the construction, maintenance and operation of the
23 reservoir, dam or other flood mitigation structure, or combination ther-
24 eof, including the amount raised for a reasonable return to the state,
25 shall constitute a separate fund to be known as the "debt service fund",
26 for the purposes of this title. The moneys in the debt service fund
27 shall be applied to the payment of principal of and interest on obli-
28 gations issued for the purposes of this title, except when the total
29 cost of construction is paid without the issuance of obligations, in
30 which case the moneys applicable thereto shall be paid into the general
31 fund. Any installment or installments of the assessment which shall
32 become payable before any obligations have been issued shall be paid by
33 the state comptroller into the general fund and applied to the payment
34 of the cost of construction. The state comptroller shall be authorized
35 and directed to pay from the debt service fund the principal of and
36 interest on obligations issued for the purposes of this title.

37 5. All moneys in the debt service fund shall be applied by the state
38 comptroller to the payment of the principal of and interest on such
39 obligations except as otherwise stated in this section, and to the
40 purchase of the same in the open market when possible, and while await-
41 ing such purchase such excess shall be invested or kept at interest in
42 the same manner as sinking funds of the state of like nature are
43 invested. If any moneys remain in the debt service fund after all
44 outstanding obligations have been paid up and redeemed, such moneys
45 shall be paid into the general fund and may be used to pay the costs of
46 maintenance, operation and other expenses.

47 6. The authority may invest and reinvest any moneys of the general
48 fund which are not required to be deposited in accordance with the
49 provisions of section 165.00 of the local finance law. Any such invest-
50 ments shall be made only in obligations of the federal government and
51 the state of New York, and in certificates of deposit of banks or trust
52 companies or in bank or trust accounts of banks in this state, secured
53 by obligations of the United States of America or of the state of New
54 York of a market value equal at all times to the amount of the deposit
55 and with the approval of the state comptroller. The authority may sell
56 and dispose of any securities purchased for investment pursuant to this

1 section at any time with the consent of the state comptroller, and the
2 proceeds thereof shall be paid to the state comptroller and deposited in
3 the general fund.

4 7. Any obligations purchased for investment pursuant to this section
5 shall be delivered by the seller to the state comptroller, who shall be
6 the custodian thereof until the same are sold or otherwise disposed of.
7 The state comptroller shall also collect the income of such investments
8 and deposit such income in the general fund.

9 8. All payments from the general fund of the authority shall be made
10 by requisition of and signed by the authority and audited and counter-
11 signed by the state comptroller.

12 9. The authority shall keep a complete record of its financial trans-
13 actions, and shall be audited from time to time by the state comptroller
14 as deemed necessary.

15 § 2799-ttttt. Reports. 1. The authority shall, on January first of
16 each year, submit to the governor, the temporary president of the senate
17 and the speaker of the assembly a written report, which shall contain:

18 (a) a complete list of the personnel of the authority, and all of the
19 employees and persons connected with the authority;

20 (b) a financial statement showing clearly and conspicuously the
21 finances of the authority, the amounts and dates of maturity of all
22 bonds, notes and certificates of indebtedness, the amounts of money
23 received and from whom such money was received from, and the amounts of
24 money paid and purposes for which same were paid;

25 (c) a descriptive statement of the work done during the previous year,
26 including but not limited to work done to effectuate the Oswego river
27 basin management plan, and other flood mitigation or emergency flood
28 response work;

29 (d) a statement of any lands purchased by the authority during the
30 previous year and a summary of total lands purchased by the authority
31 for all previously reported years pursuant to section twenty-seven
32 hundred ninety-nine-iiii of this title. Additionally, the requirement
33 of this paragraph shall include a statement of property identified by
34 the authority that may be purchased in future years that would effectu-
35 ate the purposes of section twenty-seven hundred ninety-nine-iiii of
36 this title;

37 (e) a statement of the condition of all reservoirs, dams and other
38 flood mitigation structures, and the results secured by the operation
39 thereof in each case;

40 (f) a statement of normal and flood flows, including all captured or
41 compiled data, from the previous year and a statement of normal and
42 flood flows of the previous years compared to normal and flood flows
43 from all previously reported years;

44 (g) a statement of the work completed or ongoing as done by the
45 committee; and

46 (h) a statement of any Oswego river basin intergovernmental councils
47 formed or active, the work completed or ongoing as done by any such
48 council and the status of any council formed during the previous year
49 and during any previously reported years.

50 2. In addition to provisions of subdivision one of this section, the
51 authority shall report to the governor, the temporary president of the
52 senate and the speaker of the assembly such other matters as it shall
53 deem necessary or that shall be required of the authority.

54 § 2799-uuuuu. Hearings; hearing officers; determinations. Whenever
55 the authority shall make a determination pursuant to the provisions of
56 this title, it may hear testimony and take proofs which are material for

1 its inquiry and may appoint a hearing officer by a written appointment
2 for that purpose. Every hearing officer so appointed shall be authorized
3 to take such testimony and hear such proofs as may be material to the
4 inquiry and report the proofs and testimony so taken, with such offi-
5 cer's opinion as to the facts established thereby, to the authority. The
6 authority may make such determination from the proofs and testimony
7 taken before it or before such hearing officer or from any other data
8 which shall be deemed satisfactory, and the expenses of taking such
9 testimony or proofs shall be deemed to be a part of the expense of the
10 improvement to which it relates.

11 § 2799-vvvvv. Title not affected if in part unconstitutional or inef-
12 fective. If any term or provision of this title shall be declared uncon-
13 stitutional or ineffective in whole or in part by a court of competent
14 jurisdiction, then to the extent that it is not unconstitutional or
15 ineffective such term or provision shall be enforced and effectuated,
16 nor shall such determination be deemed to invalidate the remaining terms
17 or provisions hereof.

18 § 2799-wwwww. Actions against the authority. 1. In any action founded
19 upon tort, a notice of claim shall be required as a condition precedent
20 to the commencement of an action or special proceeding against the
21 authority or any officer, appointee, agent or employee thereof, and the
22 provisions of section fifty-e of the general municipal law shall govern
23 the giving of such notice. Except in an action for wrongful death, an
24 action against the authority for damages for injuries to real or
25 personal property, or for the destruction thereof, or for personal inju-
26 ries, alleged to have been sustained, shall not be commenced more than
27 one year and ninety days after the cause of action therefor shall have
28 accrued.

29 2. An action against the authority for wrongful death shall be
30 commenced in accordance with the notice of claim and time limitation
31 provisions of title eleven of article nine of this chapter.

§ 2. Paragraph (b) of subdivision 11 of section 310 of the executive law, as amended by chapter 463 of the laws of 2011, is amended to read as follows:

(b) a "state authority," as defined in subdivision one of section two of the public authorities law, and the following:

Albany County Airport Authority;
 Albany Port District Commission;
 Alfred, Almond, Hornellsville Sewer Authority;
 Battery Park City Authority;
 Cayuga County Water and Sewer Authority;
 (Nelson A. Rockefeller) Empire State Plaza Performing Arts
 Center Corporation;
 Industrial Exhibit Authority;
 Livingston County Water and Sewer Authority;
 Long Island Power Authority;
 Long Island Rail Road;
 Long Island Market Authority;
 Manhattan and Bronx Surface Transit Operating Authority;
 Metro-North Commuter Railroad;
 Metropolitan Suburban Bus Authority;
 Metropolitan Transportation Authority;
 Natural Heritage Trust;
 New York City Transit Authority;
 New York Convention Center Operating Corporation;
 New York State Bridge Authority;

- 1 New York State Olympic Regional Development Authority;
- 2 New York State Thruway Authority;
- 3 Niagara Falls Public Water Authority;
- 4 Niagara Falls Water Board;
- 5 Oswego River Basin Authority;
- 6 Port of Oswego Authority;
- 7 Power Authority of the State of New York;
- 8 Roosevelt Island Operating Corporation;
- 9 Schenectady Metroplex Development Authority;
- 10 State Insurance Fund;
- 11 Staten Island Rapid Transit Operating Authority;
- 12 State University Construction Fund;
- 13 Syracuse Regional Airport Authority;
- 14 Triborough Bridge and Tunnel Authority.
- 15 Upper Mohawk valley regional water board.
- 16 Upper Mohawk valley regional water finance authority.
- 17 Upper Mohawk valley memorial auditorium authority.
- 18 Urban Development Corporation and its subsidiary corporations.

19 § 3. The public authorities law is amended by adding a new section
 20 1174 to read as follows:

21 § 1174. Coordination with the Oswego river basin authority. Notwith-
 22 standing any provision of this title to the contrary, the authority
 23 shall be required to coordinate with the Oswego river basin authority,
 24 as established by title thirty-six of article eight of this chapter.
 25 Furthermore, the authority shall immediately, upon the request of the
 26 Oswego river basin authority, cede all duties and powers related to the
 27 effectuation of the general duties and powers enumerated in title thir-
 28 ty-six of article eight of this chapter to the Oswego river basin
 29 authority in order to mitigate flood events in the Oswego river basin,
 30 including but not limited to the control, operation, maintenance, and
 31 adjustment of water levels of all reservoirs, dams or other flood miti-
 32 gation structures owned or operated by the authority. The authority
 33 shall regain all powers and duties ceded to the Oswego river basin
 34 authority at the end of a flood event, as determined by the Oswego river
 35 basin authority.

36 § 4. The public authorities law is amended by adding a new section
 37 1196-s to read as follows:

38 § 1196-s. Coordination with the Oswego river basin authority.
 39 Notwithstanding any provision of this title to the contrary, an authori-
 40 ty established and organized under this title shall be required to coor-
 41 ordinate with the Oswego river basin authority, as established by title
 42 thirty-six of article eight of this chapter. Furthermore, an authority
 43 shall immediately, upon the request of the Oswego river basin authority,
 44 cede all duties and powers related to the effectuation of the general
 45 duties and powers enumerated in title thirty-six of article eight of
 46 this chapter to the Oswego river basin authority in order to mitigate
 47 flood events in the Oswego river basin, including but not limited to the
 48 control, operation, maintenance, and adjustment of water levels of all
 49 reservoirs, dams or other flood mitigation structures owned or operated
 50 by an authority. Such authority shall regain all powers and duties ceded
 51 to the Oswego river basin authority at the end of a flood event, as
 52 determined by the Oswego river basin authority.

53 § 5. This act shall take effect immediately; provided, however, that
 54 the amendments to paragraph (b) of subdivision 11 of section 310 of the
 55 executive law made by section two of this act shall not affect the
 56 repeal of such section and shall be deemed repealed therewith.