

STATE OF NEW YORK

8019--A

2025-2026 Regular Sessions

IN ASSEMBLY

April 22, 2025

Introduced by M. of A. MOLITOR -- read once and referred to the Committee on Cities -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public authorities law, in relation to establishing the city of Dunkirk interim finance authority; and to repeal the city of Dunkirk fiscal recovery act

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

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

3 TITLE 1-A

4 CITY OF DUNKIRK INTERIM FINANCE AUTHORITY

5 Section 3750. Short title.

6 3751. Definitions.

7 3752. City of Dunkirk interim finance authority.

8 3753. Administration of the authority.

9 3754. General powers of the authority.

10 3755. Declaration of need.

11 3756. Bonds of the authority.

12 3757. Resources of the authority.

13 3758. Agreement with the state.

14 3759. Agreement with the city.

15 3760. Bonds legal for investment and deposit.

16 3761. Tax exemption and tax contract by the state.

17 3762. Actions against the authority.

18 3763. Audits.

19 3764. Remedies of bondholders.

20 3765. Assistance to the authority; employees of the authority.

21 3766. 2025 fiscal year budget modification.

22 3767. City financial plans.

23 3768. Monitoring and review.

24 3769. Control period.

25 3770. Miscellaneous provisions.

26 3771. Effect of inconsistent provisions.

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

LBD11445-05-5

1 3772. Separability; construction.

2 § 3750. Short title. This title shall be known and may be cited as the
3 "City of Dunkirk Interim Finance Authority Act".

4 § 3751. Definitions. For the purposes of this title, unless the
5 context otherwise requires:

6 1. "Authority" or "city of Dunkirk interim finance authority" means
7 the public benefit corporation created by this title.

8 2. "Bonds" means bonds, notes and other evidences of indebtedness,
9 issued or incurred by the authority.

10 3. "Chief fiscal officer" means the chief fiscal officer of the city
11 as defined in the city charter.

12 4. "Fiscal affairs officer" means the fiscal affairs officer of the
13 city.

14 5. "Control period" means a period determined by the authority in
15 accordance with section thirty-seven hundred sixty-nine of this title.

16 6. "City" means the city of Dunkirk.

17 7. "City charter" means the city government law of the city of
18 Dunkirk, as amended.

19 8. "Mayor" means the mayor of the city of Dunkirk.

20 9. "City tax revenues" means (a) that portion of tax revenues that is
21 deducted and withheld for transfer and credit by the authority to the
22 city of Dunkirk revenue anticipation note withholding fund established
23 by the authority and (b) the balance of tax revenues transferred by the
24 authority to the city, pursuant to section thirty-seven hundred fifty-
25 seven of this title.

26 10. "Covered organization" means any governmental agency, public
27 authority or public benefit corporation which receives or may receive
28 moneys directly, indirectly or contingently from the city, but excluding
29 the authority and (a) any governmental agency, public authority or
30 public benefit corporation specifically exempted from the provisions of
31 this title by order of the authority upon application of such agency,
32 public authority, or corporation to the authority or at the authority's
33 own motion upon a finding by the authority that such exemption does not
34 materially affect the ability of the city to adopt and maintain a budget
35 pursuant to the provisions of this title, and provided that at the time
36 of such exemption, there shall have been and during the period of such
37 exemption there shall be an annual audit by a nationally recognized
38 independent certified public accounting firm or consortium of firms, one
39 of which shall be a nationally recognized firm, of the covered organiza-
40 tion's financial statements performed in accordance with generally
41 accepted auditing standards and report by such auditor thereon which
42 includes an opinion that the financial statements so audited have been
43 prepared in accordance with generally accepted accounting principles and
44 such other information as such auditors deem appropriate, (b) any state
45 public authority as defined in section two hundred one of the civil
46 service law, unless specifically named above, or (c) any governmental
47 agency, authority, commission or instrumentality created by compact or
48 agreement between the state of New York and another state or states;
49 provided, however, that the authority may terminate any exemption grant-
50 ed by order of the authority pursuant to this subdivision upon a deter-
51 mination that the circumstances upon which such exemption was granted
52 are no longer applicable.

53 11. "Director of the budget" means the director of the budget of the
54 state.

55 12. "Financeable costs" or "costs" means costs to finance (a) amounts
56 necessary to accomplish a refunding, repayment or restructuring of a

1 portion of the city's outstanding indebtedness or that of any covered
2 organization, (b) cash flow needs of the city, (c) tax certiorari
3 settlements and judgments of any kind to which the city is a party, (d)
4 appropriated capital costs of the city, including the costs of any
5 preliminary studies, surveys, maps, plans, estimates and hearings, (e)
6 amounts necessary to finance any city deficit, to the extent authorized
7 by state law, or (f) incidental costs, including, but not limited to,
8 legal fees, printing or engraving, publication of notices, taking of
9 title, apportionment of costs, and capitalized interest, insurance
10 premiums, costs related to items authorized in subdivisions seven
11 through ten of section thirty-seven hundred fifty-four of this title or
12 any underwriting or other costs incurred in connection with the financ-
13 ing thereof.

14 13. "Financial plan" means the financial plan of the city and the
15 covered organizations to be developed pursuant to section thirty-seven
16 hundred sixty-seven of this title, as from time to time amended.

17 14. "Interim finance period" means the period of time from the effec-
18 tive date of this title until the date when (a) the authority shall
19 determine, based on annual audit reports furnished in accordance with
20 this title, that for each fiscal year, through and including fiscal year
21 two thousand eight, that the city has adopted and adhered to budgets
22 covering all expenditures the results of which did not show a major
23 operating funds deficit when reported in accordance with generally
24 accepted accounting principles, subject to the provisions of this title,
25 and shall further determine that in the then current fiscal year there
26 is a substantial likelihood that the results of the city's operations
27 will not show a deficit in the major operating funds when so reported
28 and (b) the chief fiscal officer shall certify that securities sold by
29 or for the benefit of the city during the fiscal year immediately
30 preceding such date and the then current fiscal year in the general
31 public market satisfied the financing requirements of the city during
32 such period and that there is a substantial likelihood that such securi-
33 ties can be sold in the general public market from such date through the
34 end of the next succeeding fiscal year in amounts which will satisfy
35 substantially all of the capital and seasonal financing requirements of
36 the city during such period in accordance with the financial plan then
37 in effect.

38 15. "Legislature" means the legislature of the city.

39 16. "Major operating funds" means the general fund, the police
40 district fund, the police headquarters fund, the city parks fund and the
41 fire prevention fund of the city, together with any other funds of the
42 city or a covered organization from time to time designated by the
43 authority.

44 17. "NCIFA assistance" means the amount of debt service savings in a
45 given fiscal year generated from the proceeds of bonds made available to
46 or for the benefit of the city or any covered organization as determined
47 by the authority.

48 18. "Presiding officer" means the presiding officer of the legisla-
49 ture, elected pursuant to the rules of the legislature.

50 19. "Projected gap" means the excess, if any, of annual aggregate
51 projected expenditures over annual aggregate projected revenues for the
52 major operating funds in each year of a financial plan as determined by
53 the city and certified by the authority. For purposes of determining the
54 projected gap in each fiscal year, annual aggregate projected revenues
55 shall not include the amount of NCIFA assistance or transitional state
56 aid expected to be available for such fiscal year.

1 20. "Public corporation" means and includes the city, the state and
2 every public corporation as defined in the general construction law.

3 21. "Revenues" means the tax revenues and all aid, rents, fees, charg-
4 es, payments and other income and receipts paid or payable to the
5 authority or a trustee for the account of the authority to the extent
6 such amounts are pledged to bondholders, but in no event shall revenues
7 include any transitional state aid.

8 22. "State" means the state of New York.

9 23. "Tax revenues" means sales and compensating use tax net
10 collections paid or payable to the authority pursuant to section twelve
11 hundred sixty-one of the tax law.

12 24. "Transitional state aid" means any state aid appropriated to the
13 authority for the benefit of the city for (a) unrestricted aid purposes
14 and (b) the purpose of assisting the city in streamlining the tax
15 certiorari claims process and eliminating the need to borrow for such
16 costs.

17 § 3752. City of Dunkirk interim finance authority. 1. There is hereby
18 created the city of Dunkirk interim finance authority. The authority
19 shall be a corporate governmental agency and instrumentality of the
20 state constituting a public benefit corporation.

21 2. In accordance with the provisions of this title, the authority may
22 issue bonds only to finance costs, including the refunding of bonds
23 issued by the authority to finance costs, and fund reserves to secure
24 such bonds.

25 3. The authority shall continue until its oversight, control or other
26 responsibilities, and its liabilities have been met or otherwise
27 discharged. Upon the termination of the existence of the authority, all
28 of its rights and property shall pass to and be vested in the city.

29 § 3753. Administration of the authority. 1. The authority shall be
30 administered by nine directors appointed by the governor. Of the nine
31 directors, one each shall be appointed on the written recommendation of
32 the temporary president of the senate, the minority leader of the
33 senate, the speaker of the assembly, the minority leader of the assembly
34 and the state comptroller, respectively. Two of the members appointed
35 directly by the governor and the members appointed on the recommendation
36 of the temporary president of the senate, the recommendation of the
37 minority leader of the senate, the recommendation of the speaker of the
38 assembly, the recommendation of the minority leader of the assembly and
39 the recommendation of the state comptroller shall be residents of Chau-
40 tauqua county. Each director shall be appointed for a term of four
41 years, provided however, that two of the directors first appointed by
42 the governor shall serve for a term ending December thirty-first, two
43 thousand twenty-nine, and the five other directors first appointed shall
44 serve for the following terms: the directors appointed on recommendation
45 of the temporary president of the senate, the minority leader of the
46 senate, the speaker of the assembly, the minority leader of the assembly
47 and the state comptroller shall serve for a term ending December thir-
48 ty-first, two thousand thirty and the two remaining directors first
49 appointed directly by the governor shall serve for a term ending on
50 December thirty-first, two thousand thirty-one. Each director shall hold
51 office until such director's successor has been appointed and qualified.
52 Thereafter each director shall serve a term of four years, except that
53 any director appointed to fill a vacancy shall serve only until the
54 expiration of their predecessor's term.

55 2. The governor, the temporary president of the senate, the minority
56 leader of the senate, the speaker of the assembly, the minority leader

1 of the assembly, and the state comptroller shall designate a chairperson
2 and a vice-chairperson from among the directors. The chairperson shall
3 preside over all meetings of the directors and shall have such other
4 duties as the directors may prescribe. The vice-chairperson shall
5 preside over all meetings of the directors in the absence of the chair-
6 person and shall have such other duties as the directors may prescribe.

7 3. The directors of the authority shall serve without salary, but each
8 director shall be reimbursed for actual necessary expenses incurred in
9 the performance of such director's official duties as a director of the
10 authority.

11 4. Notwithstanding any inconsistent provision of any general, special
12 or local law, ordinance, resolution or charter, no officer, member or
13 employee of the state of New York, any city, county, town or village,
14 any governmental entity operating any public school or college, any
15 school district or any other public agency or instrumentality which
16 exercises governmental powers under the laws of the state, shall forfeit
17 their office or employment by reason of their acceptance of appointment
18 as a director, officer or employee of the authority, nor shall service
19 as such director, officer or employee of the authority be deemed incom-
20 patible or in conflict with such office or employment.

21 5. Five directors shall constitute a quorum for the transaction of any
22 business or the exercise of any power of the authority. No action shall
23 be taken by the authority except pursuant to a favorable vote of at
24 least five directors participating in a meeting at which such action is
25 taken.

26 6. The authority shall appoint a treasurer and may appoint officers
27 and agents as it may require and prescribe their duties.

28 7. At least annually, commencing no more than one year after the date
29 on which authority bonds are first issued, the authority shall report to
30 the mayor, the city legislature, the fiscal affairs officer, the direc-
31 tor of the budget, the speaker of the assembly, the temporary president
32 of the senate, the minority leader of the senate, the minority leader of
33 the assembly and the state comptroller on the costs financed by the
34 authority and the amount of such financing for each such cost over the
35 past year.

36 § 3754. General powers of the authority. Except as otherwise limited
37 by this title, the authority shall have the following powers in addition
38 to those specially conferred elsewhere in this title, subject only to
39 agreements with bondholders:

40 1. to sue and be sued;

41 2. to have a seal and alter the same at pleasure;

42 3. to make and alter by-laws for its organization and management and,
43 subject to agreements with its bondholders, to make and alter rules and
44 regulations governing the exercise of its powers and fulfillment of its
45 purposes under this title;

46 4. to make and execute contracts and all other instruments or agree-
47 ments necessary or convenient to carry out any powers and functions
48 expressly given in this title;

49 5. to commence any action to protect or enforce any right conferred
50 upon it by any law, contract or other agreement;

51 6. to borrow money and issue bonds, or to refund the same, and to
52 provide for the rights of the holders of its bonds;

53 7. as security for the payment of the principal of and interest on any
54 bonds issued by it pursuant to this title and any agreements made in
55 connection therewith and for its obligations under bond facilities, to
56 pledge all or any part of its revenues or assets;

1 8. to procure insurance, letters of credit or other credit enhancement
2 with respect to its bonds, or facilities for the payment of tenders of
3 such bonds or facilities for the payment upon maturity of short-term
4 notes not renewed;

5 9. to enter into interest rate exchange or similar arrangements with
6 any person under such terms and conditions as the authority may deter-
7 mine, not inconsistent with the general laws of this state and other
8 provisions of this title, including, without limitation, provisions as
9 to default or early termination and indemnification by the authority or
10 any other party thereto for loss of benefits as a result thereof;
11 provided, however, that such exchanges or similar arrangements shall be
12 limited to fifty percent of the amount authorized in subdivision one of
13 section thirty-seven hundred fifty-six of this title to pay the finance-
14 able costs described in paragraph (a) of subdivision twelve of section
15 thirty-seven hundred fifty-one of this title;

16 10. to procure insurance, letters of credit or other credit enhance-
17 ment with respect to arrangements described in subdivision nine of this
18 section;

19 11. to accept gifts, grants, loans or contributions of funds or finan-
20 cial or other aid in any form from the city, county, state or federal
21 government or any agency or instrumentality thereof, or from any other
22 source and to expend the proceeds for any of its corporate purposes in
23 accordance with the provisions of this title;

24 12. subject to the provisions of any contract with bondholders, to
25 invest any funds held in reserves or sinking funds, or any funds not
26 required for immediate use or disbursement, at the discretion of the
27 authority, in (a) obligations of the state or the United States govern-
28 ment, (b) obligations the principal and interest of which are guaranteed
29 by the state or the United States government, (c) certificates of depos-
30 it, whether negotiable or non-negotiable, and banker's acceptances of
31 any of the fifty largest banks in the United States which bank, at the
32 time of investment, has an outstanding unsecured, uninsured and unguar-
33 anteed debt issue ranked in either of the two highest rating categories
34 of two nationally recognized independent rating agencies, (d) commercial
35 paper of any bank or corporation created under the laws of either the
36 United States or any state of the United States which commercial paper,
37 at the time of the investment, has received the highest rating of two
38 nationally recognized independent rating agencies, (e) bonds, debent-
39 ures, or other evidences of indebtedness, issued or guaranteed at the
40 time of the investment by the federal national mortgage association,
41 federal home loan mortgage corporation, student loan marketing associ-
42 ation, federal farm credit system, or any other United States government
43 sponsored agency, provided that at the time of the investment such agen-
44 cy receives, or its obligations receive, any of the three highest rating
45 categories of two nationally recognized independent rating agencies, (f)
46 any bonds or other obligations of any state or the United States of
47 America or of any political subdivision thereof or any agency, instru-
48 mentality or local governmental unit of any such state or political
49 subdivision which bonds or other obligations, at the time of the invest-
50 ment, have received any of the three highest ratings of two nationally
51 recognized independent rating agencies, (g) any repurchase agreement
52 with any bank or trust company organized under the laws of any state of
53 the United States of America or any national banking association or
54 government bond dealer reporting to, trading with, and recognized as a
55 primary dealer by the Federal Reserve Bank of New York, which agreement
56 is secured by any one or more of the securities described in paragraph

1 (a), (b) or (e) of this subdivision which securities shall at all times
2 have a market value of not less than the full amount of the repurchase
3 agreement and be delivered to another bank or trust company organized
4 under the laws of New York State or any national banking association
5 domiciled in New York state, as custodian, and (h) reverse repurchase
6 agreements with any bank or trust company organized under the laws of
7 any state of the United States of America or any national banking asso-
8 ciation or government bond dealer reporting to, trading with, and recog-
9 nized as a primary dealer by the Federal Reserve Bank of New York, which
10 agreement is secured by any one or more of the securities described in
11 paragraph (a), (b) or (e) of this subdivision which securities shall at
12 all times have a market value of not less than the full amount of the
13 repurchase agreement and be delivered to another bank or trust company
14 organized under the laws of New York state or any national banking asso-
15 ciation domiciled in New York state, as custodian.

16 13. to appoint such officers and employees as it may require for the
17 performance of its duties and to fix and determine their qualifications,
18 duties, and compensation, and to retain or employ counsel, auditors and
19 private financial consultants and other services on a contract basis or
20 otherwise for rendering professional, business or technical services and
21 advice; and, in taking such actions, the authority shall consider the
22 financial impact on the city; and

23 14. to do any and all things necessary or convenient to carry out its
24 purposes and exercise the powers expressly given and granted in this
25 title; provided, however, such authority shall under no circumstances
26 acquire, hold or transfer title to, lease, own beneficially or other-
27 wise, manage, operate or otherwise exercise control over any real prop-
28 erty, any improvement to real property or any interest therein other
29 than a lease or sublease of office space deemed necessary or desirable
30 by the authority.

31 § 3755. Declaration of need. 1. The city shall determine and declare
32 whether it requests the authority to undertake a financing of costs. Any
33 such request shall be made by the mayor and approved by the legislature.
34 Any such financing shall be consistent with the adopted budget and
35 financial plan required under sections thirty-seven hundred sixty-six
36 and thirty-seven hundred sixty-seven of this title, as applicable.

37 2. Upon declaration by the city of such need, the mayor shall request
38 that the authority provide financing in accordance with the provisions
39 of this title.

40 3. Upon approval by the authority, in its discretion in accordance
41 with the provisions of this title, of such financing request, the
42 authority may enter into agreements with the city, and the city, acting
43 by the mayor, approved by the legislature, may enter into agreements
44 with the authority in accordance with the provisions of this title as to
45 the financing of costs by the authority, the application of tax revenues
46 to the authority to secure its bonds, and further assurances in respect
47 of the authority's receipt of such revenues and the fiscal affairs of
48 the city, including but not limited to the manner of preparation of
49 budget reports and financial plans as provided for in sections thirty-
50 seven hundred sixty-six and thirty-seven hundred sixty-seven of this
51 title, as applicable. The authority's revenues shall not be deemed funds
52 of the city. Any such agreements may be pledged by the authority to
53 secure its bonds and may not be modified thereafter except as provided
54 by the terms of the pledge.

55 4. Such agreements shall (a) describe the particular financeable costs
56 to be financed in whole or in part by the authority, (b) describe the

1 plan for the financing of the costs, (c) set forth the method by which
2 and by whom and the terms and conditions upon which money provided by
3 the authority shall be disbursed to the city, (d) where appropriate,
4 provide for the payment of such costs by the city under such contracts
5 as shall be awarded by the city or for the city to make a capital
6 contribution of such proceeds as city funds to another entity for the
7 payment or reimbursement of such costs, and (e) require every contract
8 entered into by the city, or another entity receiving funds from the
9 city, for costs to be financed in whole or in part by the authority to
10 be subject to the provisions of the city charter and other applicable
11 laws governing contracts of the city or such entity, as the case may be.
12 Nothing contained in this title shall relieve or modify the application
13 to the city or any entity acting on behalf of the city or any covered
14 organization of the requirements of law relating to (i) contracts for
15 procurement, design, construction, services and materials, or (ii) the
16 provisions of section two hundred twenty of the labor law, or (iii) the
17 provisions of article five-A of the general municipal law.

18 5. At least annually, commencing no more than one year after the date
19 on which authority bonds are first issued, the mayor shall report to the
20 authority, fiscal affairs officer, the legislature, the state comp-
21 troller, the chairs of the senate finance committee and the assembly
22 ways and means committee, and the director of the budget on the costs
23 financed by the authority and the amount of such financing over the past
24 year, which report shall describe, by reference to the specific items in
25 the city's budget or financial plan, its compliance therewith.

26 § 3756. Bonds of the authority. 1. (a) The authority shall have the
27 power and is hereby authorized from time to time to issue bonds in such
28 principal amounts as it may determine to be necessary pursuant to
29 section thirty-seven hundred fifty-five of this title to pay any
30 financeable costs and to fund reserves to secure such bonds, including
31 incidental expenses in connection therewith. Provided, however, the
32 aggregate principal amounts of such bonds issued to pay the financeable
33 city costs described in paragraph (c) of subdivision twelve of section
34 thirty-seven hundred fifty-one of this title, which resulted from
35 certiorari proceedings commenced on or after June first, two thousand
36 twenty-five, shall not exceed eight hundred million dollars in the
37 aggregate, excluding bonds, notes, or other obligations issued to refund
38 or otherwise repay bonds, notes, or other obligations theretofore issued
39 for such purposes. Effective in the year two thousand thirty-one, upon
40 request of the city, the authority shall issue, in the amount requested,
41 bonds to pay tax certiorari settlements or judgments of any kind to
42 which the city is a party, not to exceed fifteen million dollars; and
43 effective in the year two thousand thirty-two, upon request of the city,
44 the authority shall issue, in the amount requested, bonds to pay tax
45 certiorari settlements or judgments of any kind to which the city is a
46 party, not to exceed ten million dollars. Whenever this title estab-
47 lishes a limit on the principal amount of bonds that the authority is
48 authorized to issue, there shall not be counted against such limit (i)
49 amounts determined by the authority as reasonable to be used to pay the
50 cost of issuing such bonds, (ii) the amount of bonds that would consti-
51 tute interest under the Internal Revenue Code of 1986, as amended, and
52 (iii) amounts determined by the authority as necessary to establish any
53 reserves.

54 (b) The authority shall have the power from time to time to refund any
55 bonds of the authority by the issuance of new bonds, whether the bonds
56 to be refunded have or have not matured, and may issue bonds partly to

1 refund bonds of the authority then outstanding and partly to pay the
2 financeable costs pursuant to section thirty-seven hundred fifty-five of
3 this title. Bonds issued by the authority shall be payable solely out of
4 particular revenues or other moneys of the authority as may be desig-
5 nated in the proceedings of the authority under which the bonds shall be
6 authorized to be issued, subject to any agreements entered into between
7 the authority and the city, and subject to any agreements with the hold-
8 ers of outstanding bonds pledging any particular revenues or moneys; but
9 in no event shall transitional state aid be pledged as security for or
10 be made available for the payment of bonds.

11 2. The authority is authorized to issue its bonds for a period ending
12 not later than December thirty-first, two thousand forty-six. The
13 authority may issue bonds to refund bonds previously issued without
14 regard to the limitation in the first sentence of this subdivision, but
15 in no event shall any bonds of the authority finally mature later than
16 January thirty-first, two thousand seventy-six. Notwithstanding any
17 other provision of law, no bond of the authority shall mature more than
18 thirty years from the date of its issue.

19 3. Bonds of the authority may be issued, amortized, redeemed and
20 refunded without regard to the provisions of the local finance law;
21 provided, however, that the principal amount of outstanding bonds issued
22 by the authority shall be deemed to be indebtedness of the city solely
23 in ascertaining the amount of indebtedness the city may contract pursu-
24 ant to the local finance law and the state constitution and the authori-
25 ty shall not exceed such limitation.

26 4. The directors may delegate to the chairperson or other director or
27 officer of the authority the power to set the final terms of bonds.

28 5. The authority in its sole discretion shall determine that the issu-
29 ance of its bonds is appropriate. Bonds shall be authorized by resol-
30 ution of the authority. Bonds shall bear interest at such fixed or
31 variable rates and shall be in such denominations, be in such form,
32 either coupon or registered, be sold at such public or private sale, be
33 executed in such manner, be denominated in United States currency, be
34 payable in such medium of payment, at such place and be subject to such
35 terms of redemption as the authority may provide in such resolution. No
36 bonds of the authority may be sold at private sale unless such sale and
37 the terms thereof have been approved in writing by (a) the state comp-
38 troller where such sale is not to the state comptroller, or (b) the
39 director of the budget, where such sale is to the state comptroller.

40 6. As a condition precedent to authorizing the issuance of any bonds
41 hereunder, the authority may include in any agreement with the city such
42 provisions as are deemed necessary and appropriate including express
43 provisions regarding compliance with sections thirty-seven hundred
44 sixty-six and thirty-seven hundred sixty-seven of this title, as appli-
45 cable.

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

49 (a) pledging all or part of the authority's revenues, together with
50 any other moneys, securities or contracts, to secure the payment of the
51 bonds, subject to such agreements with bondholders as may then exist;

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

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

1 (d) limitations on the issuance of additional bonds, the terms upon
2 which additional bonds may be issued and secured and the refunding of
3 bonds;

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

8 (f) vesting in a trustee or trustees such properties, rights, powers
9 and duties in trust as the authority may determine, which may include
10 any or all of the rights, powers and duties of the trustee appointed by
11 the bondholders pursuant to section thirty-seven hundred sixty-four of
12 this title and limiting or abrogating the rights of the bondholders to
13 appoint a trustee under such section or limiting the rights, duties and
14 powers of such trustee; and

15 (g) defining the acts or omissions to act which may constitute a
16 default in the obligations and duties of the authority to the bondhold-
17 ers and providing for the rights and remedies of the bondholders in the
18 event of such default, including as a matter of right the appointment of
19 a receiver; provided, however, that such acts or omissions to act which
20 may constitute a default and such rights and remedies shall not be
21 inconsistent with the general laws of the state and other provisions of
22 this title.

23 8. In addition to the powers herein conferred upon the authority to
24 secure its bonds, the authority shall have power in connection with the
25 issuance of bonds to enter into such agreements for the benefit of the
26 bondholders as the authority may deem necessary, convenient or desirable
27 concerning the use or disposition of its revenues or other moneys,
28 including the entrusting, pledging or creation of any other security
29 interest in any such revenues, moneys and the doing of any act, includ-
30 ing refraining from doing any act, which the authority would have the
31 right to do in the absence of such agreements. The authority shall have
32 power to enter into amendments of any such agreements within the powers
33 granted to the authority by this title and to perform such agreements.
34 The provisions of any such agreements may be made a part of the contract
35 with the holders of bonds of the authority.

36 9. Notwithstanding any provision of the uniform commercial code to the
37 contrary, any pledge of or other security interest in revenues, moneys,
38 accounts, contract rights, general intangibles or other personal proper-
39 ty made or created by the authority shall be valid, binding and
40 perfected from the time when such pledge is made or other security
41 interest attaches without any physical delivery of the collateral or
42 further act, and the lien of any such pledge or other security interest
43 shall be valid, binding and perfected against all parties having claims
44 of any kind in tort, contract or otherwise against the authority irre-
45 spective of whether such parties have notice thereof. No instrument by
46 which such a pledge or security interest is created nor any financing
47 statement need be recorded or filed.

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

53 11. Neither the directors of the authority nor any person executing
54 bonds shall be liable personally thereon or be subject to any personal
55 liability or accountability solely by reason of the issuance thereof.
56 The bonds or other obligations of the authority shall not be a debt of

1 either the state or the city, and neither the state nor the city shall
2 be liable thereon, nor shall they be payable out of any funds other than
3 those of the authority; and such bonds shall contain on the face thereof
4 a statement to such effect.

5 12. The authority, subject to such agreements with bondholders as then
6 may exist, shall have power to purchase bonds of the authority out of
7 any moneys available therefor, which shall thereupon be cancelled.

8 § 3757. Resources of the authority. 1. Subject to the provisions of
9 this title, the directors of the authority shall receive, accept,
10 invest, administer, expend and disburse for its corporate purposes all
11 money of the authority from whatever sources derived including (a) tax
12 revenues; (b) the proceeds of bonds; and (c) any other payments, gifts
13 or appropriations to the authority from any other source.

14 2. Subject to the provisions of any contract with bondholders, (a) the
15 money of the authority shall be paid to the authority and shall not be
16 commingled with any other money, and (b) all money received by the
17 authority which, together with other money of the authority available
18 for the expenses of the authority, the payment of debt service and
19 payments to reserve funds, exceeds the amount required for such
20 purposes, as determined by the authority, shall, subject to the
21 provisions of subdivision six of this section and to the terms of any
22 agreement between the authority and the city, be transferred to the city
23 as frequently as practicable.

24 3. The money in any of the authority's accounts shall be paid out on
25 checks signed by the treasurer of the authority, or by other lawful and
26 appropriate means such as wire or electronic transfer, on requisitions
27 of the chairperson of the authority or of such other officer as the
28 directors shall authorize to make such requisition, or pursuant to a
29 bond resolution or trust indenture.

30 4. All deposits of authority money shall be secured by obligations of
31 the United States or of the state or of the city at a market value at
32 least equal at all times to the amount of the deposit, and all banks and
33 trust companies are authorized to give such security for such deposits.
34 The authority shall have the power, notwithstanding the provisions of
35 this section, to contract with the holders of any of its bonds as to the
36 custody, collection, securing, investment and payment of any money of
37 the authority or any money held in trust or otherwise for the payment of
38 bonds or in any way to secure bonds, and to carry out any such contract
39 notwithstanding that such contract may be inconsistent with the other
40 provisions of this title. Money held in trust or otherwise for the
41 payment of bonds or in any way to secure bonds and deposits of such
42 money may be secured in the same manner as money of the authority, and
43 all banks and trust companies are authorized to give such security for
44 such deposits.

45 5. Tax revenues received by the authority pursuant to section twelve
46 hundred sixty-one of the tax law, together with any other revenues
47 received by the authority, shall be applied in the following order of
48 priority: first pursuant to the authority's contracts with bondholders,
49 then to pay the authority's operating expenses not otherwise provided
50 for, and then, subject to the authority's agreements with the city, to
51 transfer the balance of such tax revenues not required to meet contrac-
52 tual or other obligations of the authority to the city as frequently as
53 practicable.

54 6. (a) This subdivision shall apply only to revenue anticipation
55 notes, including renewals thereof, issued by the city during its fiscal
56 year ending December thirty-first, two thousand twenty-five, in antic-

1 ipation of the receipt of city tax revenues, and only to such issues of
2 revenue anticipation notes as to which the certificate described in
3 paragraph (b) of this subdivision is filed.

4 (b) Notwithstanding the provisions of subdivision five of this section
5 with respect to the transfer of the balance of tax revenues to the city,
6 prior to the delivery of each such issue of revenue anticipation notes,
7 the chief fiscal officer of the city shall file with the authority a
8 request that the authority establish a city of Dunkirk revenue antic-
9 ipation note withholding fund which shall constitute a special bank
10 account for purposes of paragraph g of section 25.00 of the local
11 finance law. Such request by such chief fiscal officer shall be accompa-
12 nyed by a certificate setting forth with respect to such issue (i) the
13 principal amount, (ii) the date of issue, (iii) the maturity date, (iv)
14 the interest rate or rates, (v) if interest shall be payable otherwise
15 than at maturity, the date or dates for the payment thereof, (vi) the
16 name and address of the paying agent, (vii) the name and address of each
17 purchaser, or, if a purchaser shall be a syndicate or similar account,
18 the name and address of each managing underwriter of such syndicate or
19 similar account, (viii) the amount payable on each principal payment
20 date and interest payment date, and (ix) a schedule setting forth the
21 total amount of city tax revenues anticipated to be received, and the
22 expected date or dates of anticipated receipt of such city tax revenues.
23 Such certificate shall be accompanied by a statement executed by the
24 chief fiscal officer certifying that the amounts and times of payments
25 of city tax revenues contained in such schedule have been estimated by
26 the use of reasonable and appropriate data and methods of estimation,
27 all in accordance with applicable law.

28 (c) All such revenue anticipation notes, in addition to a pledge of
29 the faith and credit of the city for the payment thereof, shall contain
30 a recital to the effect that they are entitled to the benefits of the
31 provisions of this subdivision.

32 (d) Commencing on the date not less than five days prior to and on
33 each day thereafter up to and including any principal and/or interest
34 payment date referred to in the certificate filed by the chief fiscal
35 officer with the authority pursuant to paragraph (b) of this subdivi-
36 sion, the authority shall pay to such paying agent from city tax reven-
37 ues transferred and credited by the authority to the city of Dunkirk
38 revenue anticipation note withholding fund as provided in paragraph (e)
39 of this subdivision the amount required to pay in full the principal
40 and/or interest due on such payment date as set forth in such certif-
41 icate. Moneys so paid shall pass immediately from the authority and vest
42 in such paying agent in trust for the benefit of the holders of the
43 revenue anticipation notes to which such certificate relates. No other
44 person having any claim of any kind in tort, contract or otherwise
45 against the city shall have any right to or claim against the moneys
46 held by such paying agent, and such moneys shall not be subject to any
47 order, judgment, lien, execution, attachment, setoff or counterclaim by
48 any such other person. Such moneys shall be held by such paying agent in
49 a separate trust account and shall be applied only to the payment of the
50 principal and/or interest due on such revenue anticipation notes,
51 provided, however, that the contract by and between the city and such
52 paying agent may provide for (i) the investment by such paying agent of
53 such moneys in direct obligations of, or in obligations guaranteed by,
54 the United States of America, provided such obligations shall be payable
55 or redeemable at the option of the holder within such time as the
56 proceeds shall be needed to pay such principal and/or interest due on

1 such revenue anticipation notes, and (ii) the use by such paying agent
2 of such moneys for the purchase of direct obligations of, or obligations
3 guaranteed by, the United States of America under one or more repurchase
4 agreements with any bank or trust company having its principal office in
5 the state of New York, provided that any such repurchase agreement shall
6 provide for the repurchase of such obligations within such time as such
7 moneys are needed to pay the principal and/or interest due on such
8 revenue anticipation notes at a repurchase price at least sufficient to
9 make the amount so invested available for the payment of principal
10 and/or interest due on such revenue anticipation notes, and provided,
11 further, that, at the time of such purchase, the market value of such
12 obligations shall be at least equal to one hundred two per centum of the
13 amount so invested. No person having any claim of any kind in tort,
14 contract or otherwise against the city shall have any right to or claim
15 against any moneys in anticipation of which such notes have been issued,
16 other than a claim for payment by the holders of such notes, and such
17 moneys shall not be subject to any order, judgment, lien, execution,
18 attachment, setoff or counterclaim by any such person. Notwithstanding
19 any provision of law to the contrary, no instrument relating to any
20 transaction authorized or contemplated by this paragraph need be filed
21 under the provisions of the uniform commercial code.

22 (e) Commencing on the day when the authority determines that the prin-
23 cipal and interest due or to come due on such outstanding revenue antic-
24 ipation notes issued against such city tax revenues in accordance with
25 the provisions of this subdivision shall equal the amount of such city
26 tax revenues as set forth on the schedule included in the certificate
27 filed with the authority pursuant to paragraph (b) of this subdivision
28 remaining to be paid to the city on or prior to any principal and/or
29 interest payment date, the authority shall deduct and withhold from the
30 amount of such city tax revenues otherwise payable to the city an amount
31 sufficient to pay, when due, the principal of and interest on all such
32 revenue anticipation notes issued and then outstanding in anticipation
33 thereof. Amounts so deducted and withheld shall be transferred and cred-
34 ited by the authority to the account established for such city tax
35 revenues in the city of Dunkirk revenue anticipation note withholding
36 fund established by the authority in accordance with the chief fiscal
37 officer's request pursuant to paragraph (b) of this subdivision. The
38 payments required to be made by the authority pursuant to paragraph (d)
39 of this subdivision shall be made from amounts on deposit in the
40 accounts established for such city tax revenues in the city of Dunkirk
41 revenue anticipation note withholding fund.

42 (f) Notwithstanding any other provision of this subdivision, at the
43 expiration of one hundred eighty days after the maturity date of any
44 issue of revenue anticipation notes issued in accordance with the
45 provisions of this subdivision, the amounts held by the paying agent
46 thereof for the payment of the principal of and interest on the notes of
47 such issue which have not been presented for payment shall be paid over
48 and remitted by such paying agent to the city and thereafter the holders
49 of such notes shall look only to the city for such payment.

50 (g) All other provisions of the local finance law not inconsistent
51 with the provisions of this subdivision shall continue to apply to the
52 authorization and issuance of revenue anticipation notes by the city.

53 § 3758. Agreement with the state. The state does hereby pledge to and
54 agree with the holders of any issue of bonds issued by the authority
55 pursuant to this title and secured by such a pledge that the state will
56 not limit, alter or impair the rights hereby vested in the authority to

1 fulfill the terms of any agreements made with such holders pursuant to
2 this title, or in any way impair the rights and remedies of such holders
3 or the security for such bonds until such bonds, together with the
4 interest thereon and all costs and expenses in connection with any
5 action or proceeding by or on behalf of such holders, are fully paid and
6 discharged. The authority is authorized to include this pledge and
7 agreement of the state in any agreement with the holders of such bonds.
8 Nothing contained in this title shall be deemed to restrict the right of
9 the state to amend, modify, repeal or otherwise alter statutes imposing
10 or relating to taxes or fees, or appropriations relating thereto. The
11 authority shall not include within any resolution, contract or agreement
12 with holders of the bonds issued under this title any provision which
13 provides that a default occurs as a result of the state exercising its
14 right to amend, repeal, modify or otherwise alter such taxes, fees, or
15 appropriations. Nothing in this title shall be deemed to obligate the
16 state to make any payments or impose any taxes to satisfy the debt
17 service obligations of the authority.

18 § 3759. Agreement with the city. The city is authorized to pledge to
19 and agree with the holders of any issue of bonds issued by the authority
20 pursuant to this title and secured by such a pledge that the city will
21 not limit, alter or impair the rights hereby vested in the authority to
22 fulfill the terms of any agreements made with such holders pursuant to
23 this title, or in any way impair the rights and remedies of such holders
24 or the security for such bonds until such bonds, together with the
25 interest thereon and all costs and expenses in connection with any
26 action or proceeding by or on behalf of such holders, are fully paid and
27 discharged. Nothing contained in this title shall be deemed to restrict
28 any right of the city to amend, modify or otherwise alter local laws,
29 ordinances or resolutions imposing or relating to the taxes imposed
30 pursuant to the authority of article twenty-nine of the tax law or other
31 taxes or fees or appropriations related to any such taxes or fees, so
32 long as, after giving effect to such amendment, modification or other
33 alteration, the amount of tax revenues projected by the authority to be
34 available during each of its fiscal years following the effective date
35 of such amendment, modification or other alteration shall be not less
36 than two hundred percent of maximum annual debt service on authority
37 bonds then outstanding. Subject to the foregoing sentence, the authority
38 shall not include in any resolution, contract or agreement with the
39 holders of its bonds any provision which provides that a default occurs
40 as a result of the city exercising its right to amend, modify, or other-
41 wise alter such taxes imposed pursuant to the authority of article twen-
42 ty-nine of the tax law or other taxes or fees. Nothing in this title
43 shall be deemed to obligate the city to make additional payments or
44 impose taxes other than those imposed pursuant to the authority of para-
45 graph one of subdivision (a) of section twelve hundred ten of the tax
46 law to satisfy the debt service obligations of the authority.

47 § 3760. Bonds legal for investment and deposit. The bonds of the
48 authority are hereby made securities in which all public officers and
49 bodies of the state and all public corporations, municipalities and
50 municipal subdivisions, all insurance companies and associations and
51 other persons carrying on an insurance business, all banks, bankers,
52 trust companies, savings banks and savings associations including
53 savings and loan associations, building and loan associations, invest-
54 ment companies and other persons carrying on a banking business, all
55 administrators, conservators, guardians, executors, trustees and other
56 fiduciaries, and all other persons whatsoever who are now or may here-

1 after be authorized to invest in bonds or in other obligations of the
2 state, may properly and legally invest funds, including capital, in
3 their control or belonging to them. The bonds are also hereby made secu-
4 rities which may be deposited with and may be received by all public
5 officers and bodies of the state and all municipalities and public
6 corporations for any purpose for which the deposit of bonds or other
7 obligations of the state is now or may hereafter be authorized.

8 § 3761. Tax exemption and tax contract by the state. 1. It is hereby
9 determined that the creation of the authority and the carrying out of
10 its corporate purposes are in all respects for the benefit of the people
11 of the state of New York and are public purposes. Accordingly, the
12 authority shall be regarded as performing an essential governmental
13 function in the exercise of the powers conferred upon it by this title.
14 The property of the authority, its income and its operations shall be
15 exempt from taxation, assessments, special assessments and ad valorem
16 levies. The authority shall not be required to pay any fees, taxes,
17 special ad valorem levies or assessments of any kind, whether state or
18 local, including, but not limited to, fees, taxes, special ad valorem
19 levies or assessments on real property, franchise taxes, sales taxes or
20 other taxes, upon or with respect to any property owned by it or under
21 its jurisdiction, control or supervision, or upon the uses thereof, or
22 upon or with respect to its activities or operations in furtherance of
23 the powers conferred upon it by this title, or upon or with respect to
24 any fares, tolls, rentals, rates, charges, fees, revenues or other
25 income received by the authority.

26 2. Any bonds issued pursuant to this title, their transfer and the
27 income therefrom shall, at all times, be exempt from taxation.

28 3. The state hereby covenants with the purchasers and with all subse-
29 quent holders and transferees of bonds issued by the authority pursuant
30 to this title, in consideration of the acceptance of and payment for the
31 bonds, that the bonds of the authority issued pursuant to this title and
32 the income therefrom and all revenues, moneys, and other property
33 pledged to pay or to secure the payment of such bonds shall at all times
34 be exempt from taxation.

35 § 3762. Actions against the authority. 1. Except in an action for
36 wrongful death, no action or proceeding shall be prosecuted or main-
37 tained against the authority for personal injury or damage to real or
38 personal property alleged to have been sustained by reason of the negli-
39 gence or wrongful act of the authority or of any director, officer,
40 agent or employee thereof, unless (a) it shall appear by and as an alle-
41 gation in the complaint or moving papers that a notice of claim shall
42 have been made and served upon the authority, within the time limit
43 prescribed by and in compliance with section fifty-e of the general
44 municipal law, (b) it shall appear by and as an allegation in the
45 complaint or moving papers that at least thirty days have elapsed since
46 the service of such notice and that adjustment or payment thereof has
47 been neglected or refused, and (c) the action or proceeding shall be
48 commenced within one year after the happening of the event upon which
49 the claim is based. An action against the authority for wrongful death
50 shall be commenced in accordance with the notice of claim and time limi-
51 tation provisions of title eleven of article nine of this chapter.

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

1 3. The authority may require any person presenting for settlement an
2 account or claim for any cause whatever against the authority to be
3 sworn before a director, counsel or an attorney, officer or employee
4 thereof designated for such purpose, concerning such account or claim
5 and when so sworn, to answer orally as to any facts relative to such
6 account or claim. The authority shall have power to settle or adjust any
7 claims in favor of or against the authority.

8 4. The rate of interest to be paid by the authority upon any judgment
9 for which it is liable, other than a judgment on bonds, shall not exceed
10 the maximum rate of interest on judgments and accrued claims against
11 municipal authorities as provided in the general municipal law. Interest
12 on payments of principal or interest on any bonds in default shall
13 accrue at the rate specified in the general municipal law until paid or
14 otherwise satisfied.

15 5. The venue of every action, suit or special proceeding brought
16 against the authority shall be laid in the Dunkirk city court.

17 6. Neither any director of the authority nor any officer, employee, or
18 agent of the authority, while acting within the scope of their authori-
19 ty, shall be subject to any liability resulting from exercising or
20 carrying out any of the powers given in this title.

21 7. (a) The state shall save harmless and indemnify directors, officers
22 and employees of and representatives to the authority, all of whom shall
23 be deemed officers and employees of the state for purposes of section
24 seventeen of the public officers law, against any claim, demand, suit,
25 or judgment arising by reason of any act or omission to act by such
26 director, officer, employee or representative occurring in the discharge
27 of their duties and within the scope of their service on behalf of the
28 authority including any claim, demand, suit or judgment based on allega-
29 tions that financial loss was sustained by any person in connection with
30 the acquisition, disposition or holding of securities or other obli-
31 gations. In the event of any such claim, demand, suit or judgment, a
32 director, officer or employee of or representative to the authority
33 shall be saved harmless and indemnified, notwithstanding the limitations
34 of subdivision one of section seventeen of the public officers law,
35 unless such individual is found by a final judicial determination not to
36 have acted, in good faith, for a purpose which such individual reason-
37 ably believed to be in the best interest of the authority or not to have
38 had reasonable cause to believe that such individual's conduct was
39 lawful.

40 (b) In connection with any such claim, demand, suit, or judgment, any
41 director, officer or employee of or representative to the authority
42 shall be entitled to representation by private counsel of their choice
43 in any civil judicial proceeding whenever the attorney general deter-
44 mines based upon the attorney general's investigation and review of the
45 facts and circumstances of the case that representation by the attorney
46 general would be inappropriate. The attorney general shall notify the
47 individual in writing of such determination that the individual is enti-
48 tled to be represented by private counsel. The attorney general may
49 require, as a condition to payment of the fees and expenses of such
50 representative, that appropriate groups of such individuals be repres-
51 ented by the same counsel. If the individual or groups of individuals is
52 entitled to representation by private counsel under the provisions of
53 this section, the attorney general shall so certify to the state comp-
54 troller. Reasonable attorneys' fees and litigation expenses shall be
55 paid by the state to such private counsel from time to time during the
56 pendency of the civil action or proceeding, subject to certification

1 that the individual is entitled to representation under the terms and
2 conditions of this section by the authority, upon the audit and warrant
3 of the state comptroller. The provisions of this subdivision shall be in
4 addition to and shall not supplant any indemnification or other benefits
5 heretofore or hereafter conferred upon directors, officers, or employees
6 of and representatives to the authority by section seventeen of the
7 public officers law, by action of the authority or otherwise. The
8 provisions of this subdivision shall inure only to directors, officers
9 and employees of and representatives to the authority, shall not enlarge
10 or diminish the rights of any other party, and shall not impair, limit
11 or modify the rights and obligations of any insurer under any policy of
12 insurance.

13 § 3763. Audits. 1. The accounts of the authority shall be subject to
14 the audit of the fiscal affairs officer and the state comptroller. In
15 addition, the authority shall be subject to an annual financial audit
16 performed by an independent certified accountant selected by the author-
17 ity. Such audit report shall be submitted to the mayor, the presiding
18 officer, the fiscal affairs officer, the governor, the state comp-
19 troller, the chair and ranking minority member of the senate finance
20 committee and the chair and ranking minority member of the assembly ways
21 and means committee.

22 2. For each fiscal year during the existence of the authority, and
23 within one hundred twenty days after the close of the city's fiscal
24 year, the city shall submit its audited financial statements to the
25 authority.

26 § 3764. Remedies of bondholders. Subject to any resolution or resolu-
27 tions adopted pursuant to paragraph (f) of subdivision seven of section
28 thirty-seven hundred fifty-six of this title:

29 1. In the event that the authority shall default in the payment of
30 principal of or interest on any issue of bonds after the same shall
31 become due, whether at maturity or upon call for redemption, and such
32 default shall continue for a period of thirty days, or shall default in
33 any agreement made with the holders of any issue of bonds, the holders
34 of at least twenty-five per centum in aggregate principal amount of the
35 bonds of such issue then outstanding, by instrument or instruments filed
36 in the office of the clerk of the city and proved or acknowledged in the
37 same manner as a deed to be recorded, may appoint a trustee to represent
38 the holders of such bonds for the purpose provided in this section.

39 2. Such trustee may, and upon written request of the holders of at
40 least twenty-five per centum in principal amount of such bonds outstand-
41 ing shall, in their own name:

42 (a) by action or proceeding in accordance with the civil practice law
43 and rules, enforce all rights of the bondholders and require the author-
44 ity to carry out any other agreements with the holders of such bonds and
45 to perform its duties under this title;

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

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

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

51 3. Such trustee shall, in addition to the provisions of subdivisions
52 one and two of this section, have and possess all of the powers neces-
53 sary or appropriate for the exercise of any functions specifically set
54 forth in this section or incident to the general representation of bond-
55 holders in the enforcement and protection of their rights.

1 4. The supreme court shall have jurisdiction of any action or proceed-
2 ing by the trustee on behalf of such bondholders.

3 § 3765. Assistance to the authority; employees of the authority. 1.
4 With the consent of any public corporation, the authority may use
5 agents, employees and facilities thereof, paying to such public corpo-
6 ration its agreed proportion of the compensation or costs.

7 2. Officers and employees of state or city agencies may be transferred
8 to the authority without examination and without loss of any civil
9 service or retirement status or rights. Any officer or employee of the
10 authority who heretofore acquired or shall hereafter acquire such posi-
11 tion status by transfer and who at the time of such transfer was a
12 member of the New York state and local employees' retirement system
13 shall continue to be a member of such system as long as such officer or
14 employee continues in such service, and shall continue to have all the
15 rights, privileges and obligations of membership in such system.

16 § 3766. 2025 fiscal year budget modification. 1. The control period as
17 set forth in section thirty-seven hundred sixty-nine of this title shall
18 be instituted on June thirtieth, two thousand twenty-five, unless prior
19 to such date (a) the mayor, after approval by the legislature, shall
20 have submitted to the authority a modification to the city's budget for
21 the two thousand twenty-five fiscal year, as in effect on May tenth, two
22 thousand twenty-five; and (b) the authority shall have determined that
23 such modification when implemented will ensure a reduction of the
24 projected gap, through recurring or nonrecurring actions, for the two
25 thousand twenty-five fiscal year and, together with any budget modifica-
26 tions prior to May tenth, two thousand twenty-five, through recurring
27 actions, for the three next succeeding fiscal years, in an amount not
28 less than fifty million dollars per year.

29 2. In order that such budget modification be effective on or before
30 June thirtieth, two thousand twenty-five, the mayor shall within seven
31 days following the effective date of this title submit a proposed
32 modification to the legislature. Within seven days thereafter, the
33 legislature shall approve such modification or a substitute modifica-
34 tion. Upon approval by the legislature, the mayor shall submit such
35 modification to the authority. Not later than ten days after such budget
36 modification shall have been submitted to the authority, the authority
37 shall approve or disapprove such modification, provided that the author-
38 ity may approve such modification only upon its determination that such
39 modification when implemented will ensure such reduction of the project-
40 ed gap for each fiscal year as required by subdivision one of this
41 section.

42 3. In the event the authority shall disapprove such budget modifica-
43 tion based on disapproval of certain actions or assumptions, the author-
44 ity shall promptly thereafter notify the mayor of its reasons. The mayor
45 shall thereafter, after approval by the legislature, resubmit a budget
46 modification, based on actions or assumptions other than those that have
47 been disapproved by the authority, for consideration by the authority
48 and in sufficient time for the authority to have a seven day review
49 period prior to June thirtieth, two thousand twenty-five.

50 § 3767. City financial plans. 1. (a)(i) The mayor shall prepare and
51 submit to the authority a four-year financial plan, initially for the
52 fiscal years ending December thirty-first, two thousand twenty-six
53 through two thousand twenty-nine, together with the proposed budget for
54 the fiscal year ending on December thirty-first, two thousand twenty-
55 six, not later than the date required for submission of such budget to
56 the legislature pursuant to the city charter. Such financial plan shall,

in addition to the requirements for financial plans set forth in subdivisions two and three of this section, contain actions sufficient to ensure with respect to the major operating funds for each fiscal year of the plan that annual aggregate operating expenses for such fiscal year shall not exceed annual aggregate operating revenues for such fiscal year. For purposes of determining operating revenues in the fiscal years ending December thirty-first, two thousand twenty-six through two thousand thirty-two, such plan may assume (A) borrowings by the city or the authority to finance tax certiorari judgments or settlements in annual amounts not exceeding one hundred million dollars, or, in the aggregate for all such years, four hundred million dollars; however, of said four hundred million dollars, no more than fifteen million dollars may be counted as operating revenue in the fiscal year two thousand thirty-one and no more than ten million dollars may be counted as operating revenue in fiscal year two thousand thirty-two, and (B) receipt by the city of NCIFA assistance and transitional state aid in the following collective amounts for each respective fiscal year:

<u>Amount</u>	<u>Fiscal Year</u>
<u>2026 amount</u>	<u>2026</u>
<u>2027 amount</u>	<u>2027</u>
<u>2028 amount</u>	<u>2028</u>
<u>2029 amount</u>	<u>2029.</u>

(ii) The one hundred million dollars annual limit on assumed tax certiorari borrowings may be waived by the authority respecting any fiscal year, upon its determination that the results of any increased and accelerated settlement or litigation efforts by the city justify such waiver.

(b) As used in this subdivision:

(i) "2026 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between thirty-five per centum and forty per centum of the projected gap.

(ii) "2027 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between forty-five per centum and fifty per centum of the projected gap.

(iii) "2028 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between sixty per centum and sixty-five per centum of the projected gap.

(iv) "2029 amount" means that amount expected to be provided by the authority to ensure balanced major operating fund operations upon its determination that the city has taken recurring actions to close between eighty per centum and eighty-five per centum of the projected gap.

2. Pursuant to the procedures contained in this subdivision, each year during the interim finance period or during a control period the city shall develop, and may from time to time modify, taking into account recommendations of the authority, a four year financial plan covering the city and the covered organizations. Each such financial plan and financial plan modification shall conform to the requirements of paragraph (a) of this subdivision and shall provide that the major operating funds of the city will be balanced in accordance with generally accepted accounting principles. The financial plan shall be developed and

1 approved, and may from time to time be modified, in accordance with the
2 following procedures:

3 (a) The mayor shall prepare and submit to the authority and the legis-
4 lature a revised financial plan covering the four year period beginning
5 with the ensuing fiscal year, together with the proposed budget for the
6 ensuing fiscal year, not later than the date required for submission of
7 such budget pursuant to the city charter. On such dates, the mayor shall
8 also submit to the authority a certificate stating that such budget is
9 consistent with the financial plan submitted therewith and that opera-
10 tion within the budget is feasible.

11 (b) Not more than twenty days after submission of a financial plan or
12 more than fifteen days after submission of a financial plan modifica-
13 tion, the authority shall determine whether the financial plan or finan-
14 cial plan modification is complete and complies with the provisions of
15 section thirty-seven hundred sixty-six and this section and the other
16 requirements of this title, and shall submit its recommendations with
17 respect to the financial plan or financial plan modification in accord-
18 ance with the provisions of this subdivision.

19 (c) Upon the approval by the city of a budget in accordance with the
20 provisions of the city charter and approval of the financial plan by the
21 legislature, the mayor shall submit such approved budget and financial
22 plan to the authority accompanied by expenditure, revenue and cash flow
23 projections on a quarterly basis and certify to the authority that such
24 budget is consistent with the financial plan to be submitted to the
25 authority.

26 (d) If the authority determines that the financial plan or financial
27 plan modification provided pursuant to paragraph (c) or (f) of this
28 subdivision is complete and complies with the standards set forth in
29 this subdivision, the authority shall make a certification to the city
30 setting forth revenue estimates agreed to by the authority in accordance
31 with such determination.

32 (e) The authority shall, in the event it disagrees with elements of
33 the financial plan provided pursuant to paragraph (c) or (f) of this
34 subdivision, provide notice thereof to the mayor, the legislature and
35 the fiscal affairs officer, with copies to the director of the budget,
36 the state comptroller, the chair of the assembly ways and means commit-
37 tee and the chair of the senate finance committee, if, in the judgment
38 of the authority, such plan:

39 (i) is incomplete;

40 (ii) fails to contain projections of revenues and expenditures that
41 are based on reasonable and appropriate assumptions and methods of esti-
42 mation;

43 (iii) fails to provide that operations of the city and the covered
44 organizations will be conducted within the cash resources available
45 according to the authority's revenue estimates; or

46 (iv) fails to comply with the provisions of this title or other
47 requirements of law.

48 (f) After the initial adoption of an approved financial plan, the
49 revenue estimates certified by the authority and the financial plan
50 shall be regularly reexamined by the authority in consultation with the
51 city and the covered organizations and the mayor shall provide a modi-
52 fied financial plan in such detail and within such time periods as the
53 authority may require. In the event of reductions in such revenue esti-
54 mates, or in the event the city or a covered organization shall expend
55 funds at a rate that would exceed the aggregate expenditure limitation
56 for the city or covered organization prior to the expiration of the

1 fiscal year, the mayor shall submit a financial plan modification to
2 effect such adjustments in revenue estimates and reductions in total
3 expenditures as may be necessary to conform to such revised revenue
4 estimates or aggregate expenditure limitations.

5 (g) If, within a time period specified by the authority, the city
6 fails to make such modifications after reductions in revenue estimates,
7 or to provide a modified plan in detail and within such time period
8 required by the authority, the authority shall adopt a resolution so
9 finding.

10 (h) The city shall amend its budget or shall submit a financial plan
11 modification for the approval of the authority such that the city's
12 budget and the approved financial plan shall be consistent. In no event
13 shall the city operate under a budget that is inconsistent with an
14 approved financial plan.

15 3. The financial plan shall be in such form and shall contain such
16 information for each year during which the financial plan is in effect
17 as the authority may specify, and shall include the city and all the
18 covered organizations, and shall, in such detail as the authority from
19 time to time may prescribe, include (a) statements of all estimated
20 revenues and of all expenditures and cash flow projections of the city
21 and each of the covered organizations, (b) a report on the status of
22 efforts to reform and streamline the tax certiorari claims process and
23 eliminate the need in each year of the plan for the city to borrow to
24 finance such claims or judgments, including an accounting of the expend-
25 iture of any transitional state aid for such purposes, and (c) an
26 accounting of the expenditure of any remaining transitional state aid
27 available to the city for each year of the plan.

28 4. The financial plan shall include any information which the authori-
29 ty may request to satisfy itself that (a) projected employment levels,
30 collective bargaining agreements and other actions relating to employee
31 costs, capital construction and such other matters as the authority may
32 specify are consistent with the provisions made for such obligations in
33 the financial plan, (b) the city and the covered organizations are
34 taking whatever action is necessary with respect to programs mandated by
35 state and federal law to ensure that expenditures for such programs are
36 limited to and covered by the expenditures stated in the financial plan,
37 (c) adequate reserves are provided to maintain essential programs in the
38 event revenues have been overestimated or expenditures underestimated
39 for any period, and (d) the city has adequate cash resources to meet its
40 obligations. In addition, except to the extent such reporting require-
41 ments may be modified pursuant to agreement between the authority and
42 the city, for each fiscal year occurring during the interim finance
43 period or while bonds issued pursuant to this title are outstanding, the
44 mayor shall prepare a quarterly report of summarized budget data depict-
45 ing overall trends of actual revenues and budget expenditures for the
46 entire budget rather than individual line items and updated quarterly
47 cash flow projections of receipts and disbursements. Such reports shall
48 compare revenue estimates and appropriations as set forth in such budget
49 and in the quarterly revenue and expenditure projections submitted ther-
50 ewith with the actual revenues and expenditures made to date. Such
51 reports shall also compare actual receipts and disbursements with the
52 estimates contained in the cash flow projections, together with vari-
53 ances and their explanation. All quarterly reports shall be accompanied
54 by recommendations from the mayor to the legislature setting forth any
55 remedial action necessary to resolve any unfavorable budget variance
56 including the overestimation of revenues and the underestimation of

1 appropriations. These reports shall be completed within thirty days
2 after the end of each quarter and shall be submitted to the legislature,
3 the authority, the director of the budget and the state comptroller.
4 Except during a control period, for each fiscal year occurring during
5 the interim finance period or while bonds issued pursuant to this title
6 are outstanding, the mayor shall submit a proposed budget or revision
7 thereto to the authority concurrent with submission to the legislature,
8 and shall submit the adopted budget to the authority immediately upon
9 its adoption.

10 5. For each financial plan and financial plan modification to be
11 prepared and submitted by the mayor to the authority pursuant to the
12 provisions of this section, the covered organizations shall submit to
13 the city such information with respect to their projected expenditures,
14 revenues and cash flows for each of the years covered by such financial
15 plan or modification as the mayor shall determine. Notwithstanding any
16 other provision of law limiting the authority of the city with respect
17 to any covered organization, the city, in the preparation and submission
18 of the financial plan and modifications thereof, shall, except for debt
19 service or for other expenditures to the extent that such expenditures
20 are required by law, have the power to determine the aggregate expendi-
21 tures to be allocated to any covered organization in the financial plan
22 and any modifications thereto.

23 6. The authority and the city shall confer concerning the projected
24 effect on the budgets of the city and the covered organizations of any
25 change in generally accepted accounting principles, or change in the
26 application of generally accepted accounting principles to the city and
27 the covered organizations, made or to be implemented after the effective
28 date of this title. If the authority determines that immediate compli-
29 ance with such change will have a material effect on such budgets over a
30 time period insufficient to accommodate the effect without a substantial
31 adverse impact on the delivery of essential services by the city, the
32 authority may authorize and approve a method of phasing the requirements
33 of such change into such budgets over such reasonably expeditious time
34 period as the authority deems appropriate.

35 § 3768. Monitoring and review. Except as otherwise provided in section
36 thirty-seven hundred sixty-nine of this title, the authority shall:

37 1. conduct meetings at least annually;

38 2. investigate, within the city and covered organizations, potential
39 violations of the provisions of this chapter, fiscal mismanagement or
40 systemic negligence; provided further that the authority shall provide
41 an annual report to the governor, the temporary president of the senate,
42 the minority leader of the senate, the speaker of the assembly, the
43 minority leader of the assembly and the authorities budget office
44 detailing such investigations;

45 3. obtain from the city all information required pursuant to this
46 section, and such other financial statements and projections, budgetary
47 data and information, and management reports and materials as the
48 authority deems necessary or desirable to accomplish the purposes of
49 this title;

50 4. recommend to the city and the covered organizations such measures
51 relating to their operation, management, efficiency and productivity as
52 the authority deems appropriate to reduce costs and improve services so
53 as to advance the purposes of this title;

54 5. consult with the city in the preparation of the budget of the city;

55 6. with respect to any city borrowing proposed to be issued after July
56 first, two thousand twenty-five, review the terms of and comment, within

1 thirty days after notification by the city of a proposed borrowing, on
2 the prudence of each proposed issuance of bonds or notes to be issued by
3 the city and no such borrowing shall be made unless first reviewed and
4 commented upon by the authority. The authority shall provide such
5 comments within thirty days after notification by the city of a proposed
6 borrowing to the mayor, the fiscal affairs officer, the legislature, the
7 director of the budget and the state comptroller;

8 7. determine whether to make transitional state aid available, and on
9 what schedule, based upon the city's compliance with the requirements of
10 sections thirty-seven hundred sixty-six and thirty-seven hundred sixty-
11 seven of this title, as applicable, and the requirements, if any, of the
12 appropriations bills authorizing such transitional state aid; and

13 8. perform such audits and reviews of the city and any agency thereof
14 and any covered organizations as it deems necessary.

15 § 3769. Control period. 1. The authority shall impose a control period
16 upon its determination at any time that any of the following events have
17 occurred or that there is a substantial likelihood and imminence of such
18 occurrence: (a) the city shall have failed to pay the principal of or
19 interest on any of its bonds or notes when due or payable, (b) the city
20 shall have incurred a major operating funds deficit of one percent or
21 more in the aggregate results of operations of such funds during its
22 fiscal year assuming all revenues and expenditures are reported in
23 accordance with generally accepted accounting principles, subject to the
24 provisions of this title, (c) the city shall have otherwise violated any
25 provision of this title and such violation substantially impairs the
26 marketability of the city's bonds or notes, (d) the chief fiscal offi-
27 cer's certification at any time, at the request of the authority or on
28 the chief fiscal officer's initiative, which certification shall be made
29 from time to time as promptly as circumstances warrant and reported to
30 the authority, that on the basis of facts existing at such time such
31 officer could not make the certification described by paragraph (b) of
32 this subdivision in the definition of interim finance period in section
33 thirty-seven hundred fifty-one of this title, or (e) the authority makes
34 the finding required under paragraph (g) of subdivision two of section
35 thirty-seven hundred sixty-seven of this title. The authority shall
36 terminate any such control period when it determines that none of the
37 conditions which would permit the authority to impose a control period
38 exist. After termination of a control period the authority shall annual-
39 ly consider paragraphs (a) through (e) of this subdivision and determine
40 whether, in its judgment, any of the events described in such paragraphs
41 have occurred and the authority shall publish each such determination.
42 Any certification made by the chief fiscal officer hereunder shall be
43 based on such officer's written determination which shall take into
44 account a report and opinion of an independent expert in the marketing
45 of municipal securities selected by the authority, and the opinion of
46 such expert and any other information taken into account shall be made
47 public when delivered to the authority. Notwithstanding any part of the
48 foregoing to the contrary, in no event shall any control period continue
49 beyond the later of (i) January first, two thousand fifty-five, or (ii)
50 the date when all bonds of the authority are refunded, discharged or
51 otherwise defeased.

52 2. In carrying out the purposes of this title during any control peri-
53 od:

54 (a) The authority shall (i) consult with the city and the covered
55 organizations in the preparation of the financial plan, and certify to
56 the city the revenue estimates approved therein, (ii) prescribe the form

1 of the financial plan and the supporting information required in
2 connection therewith, (iii) exercise the rights of approval, disapproval
3 and modification with respect to the financial plan, including but not
4 limited to the revenue estimates contained therein, and (iv) in the
5 event the authority has made the finding required under section thirty-
6 seven hundred sixty-seven of this title, formulate and adopt its modifi-
7 cations to the financial plan, such modifications to become effective on
8 their adoption by the authority.

9 (b) The authority shall, from time to time and to the extent it deems
10 necessary or desirable in order to accomplish the purposes of this
11 title, (i) review the operations, management, efficiency and productiv-
12 ity of such city operations and of such covered organizations or
13 portions thereof as the authority may determine, and make reports there-
14 on; (ii) audit compliance with the financial plan in such areas as the
15 authority may determine; (iii) recommend to the city and the covered
16 organizations such measures relating to their operations, management,
17 efficiency and productivity as it deems appropriate to reduce costs and
18 improve services so as to advance the purposes of this title; and (iv)
19 obtain information on the financial condition and needs of the city and
20 the covered organizations. Nothing herein shall diminish the powers of
21 the state comptroller otherwise provided by law and the authority may
22 request the assistance of the state comptroller in the performance of
23 the above functions.

24 (c) The authority shall (i) receive from the city and the covered
25 organizations and from the state comptroller, and review, such financial
26 statements and projections, budgetary data and information, and manage-
27 ment reports and materials as the authority deems necessary or desirable
28 to accomplish the purposes of this title, and (ii) inspect, copy and
29 audit such books and records of the city and the covered organizations
30 as the authority deems necessary or desirable to accomplish the purposes
31 of this title.

32 (d) All contracts entered into by the city or any covered organization
33 during any control period must be consistent with the provisions of this
34 title and must comply with the requirements of the financial plan as
35 approved by the authority. With respect to all contracts or other obli-
36 gations to be entered into by the city or any covered organization
37 during any control period requiring the payment of funds or the incur-
38 ring of costs by the city or any covered organizations:

39 (i) Within twenty days from the commencement of a control period, the
40 mayor shall present to the authority proposed guidelines respecting the
41 categories and types of contracts and other obligations required to be
42 reviewed by the authority pursuant to this subdivision. Any such guide-
43 lines may provide a different standard for review with respect to
44 contracts of any covered organization as the authority shall determine.
45 Within thirty days from the commencement of a control period, the
46 authority shall approve or modify and approve such proposed guidelines
47 or promulgate its own in the event that such proposed guidelines are not
48 submitted to it within the twenty days as provided for herein. Such
49 guidelines may thereafter be modified by the authority from time to time
50 on not less than thirty days' notice to the mayor and the mayor may from
51 time to time propose modifications to the authority. Unless expressly
52 disapproved or modified by the authority within thirty days, or such
53 additional time, not exceeding thirty days, as the authority shall have
54 notified the city or covered organization that it requires to complete
55 it's review and analysis, from the date of submission by the mayor, any

1 such proposed guidelines or modifications shall be deemed approved by
2 the authority;

3 (ii) Prior to entering into any contract or other obligation subject
4 to review of the authority under its guidelines, the city or any covered
5 organization shall submit a copy of such contract or other obligation to
6 the authority accompanied by an analysis of the projected costs of such
7 contract or other obligation and certification that performance thereof
8 will be in accordance with the financial plan, all in such form and with
9 such additional information as the authority may prescribe. The authori-
10 ty shall promptly review the terms of such contract or other obligation
11 and the supporting information in order to determine compliance with the
12 financial plan;

13 (iii) The authority shall, by order, disapprove any contract or other
14 obligation reviewed by it only after adoption of a resolution determin-
15 ing that, in its judgment, the performance of such contract or other
16 obligation would be inconsistent with the financial plan, and upon such
17 order the city or covered organization shall not enter into such
18 contract or other obligation; and

19 (iv) If the authority approves the terms of a reviewed contract or
20 other obligation, the city or covered organization may enter into such
21 contract or other obligation upon the terms submitted to the authority.
22 Failure of the authority to notify the city or covered organization
23 within thirty days, or such additional time, not exceeding thirty days,
24 as the authority shall have notified the city or covered organization
25 that it requires to complete its review and analysis, after submission
26 to it of a contract or other obligation that such contract or other
27 obligation has been disapproved shall be deemed to constitute authority
28 approval thereof.

29 (e) The authority shall review the terms of each proposed long-term
30 and short-term borrowing by the city and any covered organization to be
31 affected during any control period, and no such borrowing shall be made
32 during any control period unless it is approved by the authority.
33 Neither the city nor any covered organization shall be prohibited from
34 issuing bonds or notes to pay outstanding bonds or notes.

35 (f) The authority shall issue, to the appropriate official of the city
36 and each covered organization, such orders as it deems necessary to
37 accomplish the purposes of this title, including, but not limited to,
38 timely and satisfactory implementation of an approved financial plan.
39 Any order so issued shall be binding upon the official to whom it was
40 issued and failure to comply with such order shall subject the official
41 to the penalties described in subdivision four of this section.

42 (g) The authority is authorized to and shall withhold any transitional
43 state aid and not pay such moneys to the city during any control period.

44 3. (a) During a control period, upon a finding by the authority that a
45 wage freeze is essential to the adoption or maintenance of a city budget
46 or a financial plan that is in compliance with this title, the authori-
47 ty, after enactment of a resolution so finding, may declare a fiscal
48 crisis. Upon making such a declaration, the authority shall be empowered
49 to order that all increases in salary or wages of employees of the city
50 and employees of covered organizations which will take effect after the
51 date of the order pursuant to collective bargaining agreements, other
52 analogous contracts or interest arbitration awards, now in existence or
53 hereafter entered into, requiring such salary increases as of any date
54 thereafter are suspended. Such order may also provide that all increased
55 payments for holiday and vacation differentials, and shift differentials
56 for employees of the city and employees of covered organizations which

1 will take effect after the date of the order pursuant to collective
2 bargaining agreements, other analogous contracts or interest arbitration
3 awards requiring such increased payments as of any date thereafter are,
4 in the same manner, suspended. Such order may also provide that all
5 increased payments for salary adjustments according to plan and step-ups
6 or increments be suspended; provided, however, when (i) the mayor
7 provides a four year financial plan approved by the city legislature
8 pursuant to paragraph (a) of subdivision two of section thirty-seven
9 hundred sixty-seven of this title and the authority determines, pursuant
10 to paragraph (b) of such subdivision, that such financial plan is
11 complete and complies with the standards set forth in such subdivision,
12 and (ii) the authority makes a certification to the city setting forth
13 revenue estimates agreed to by the authority in accordance with such
14 determination, the salary adjustments according to plan and step-ups or
15 increments, not including cost of living increases, shall not be
16 suspended for each year in which the four year financial plan has been
17 certified. This inability to suspend the salary adjustments according to
18 plan and step-ups or increments shall be applicable to city employees
19 and employees of covered organizations, whether or not they are covered
20 by a collectively negotiated agreement, if an individual employee or
21 members of an employee's bargaining unit previously participated in a
22 wage freeze implemented by the authority under this section and such
23 wage freeze was subsequently lifted by the authority by the issuance of
24 a resolution, pursuant to paragraph (b) or (c) of this subdivision,
25 certifying that the suspension of their wage increases or an agreement
26 by the collective bargaining representative or by such unrepresented
27 employee was an acceptable and appropriate contribution toward alleviat-
28 ing the fiscal crisis of the city. Irrespective of the duration of any
29 approved or accepted four year financial plan, for employees who are
30 members of a bargaining unit, this inability to suspend the salary
31 adjustment according to plan and step-ups or increments shall take
32 effect October first, two thousand forty-one and shall be in effect for
33 employees for the duration of the next collective bargaining agreement
34 succeeding either (i) the collective bargaining agreement in effect on
35 November sixth, two thousand forty-three or (ii) the most recently
36 expired collective bargaining agreement prior to November sixth, two
37 thousand forty-three; whichever is later. If the succeeding collective
38 bargaining agreement's duration is modified, extended, or renewed, this
39 modification, extension or renewal does not modify, extend or renew the
40 term of the inability to suspend salary adjustments according to plan
41 and step-ups or increments. For employees who are not members of a
42 bargaining unit, this inability to suspend the salary adjustment accord-
43 ing to plan and step-ups or increments shall be effective October first,
44 two thousand forty-one through December first, two thousand forty-six.
45 For the purposes of computing the pension base of retirement allowances,
46 any suspended salary or wage increases and any suspended other payments
47 shall not be considered as part of compensation or final compensation or
48 of annual salary earned or earnable. The suspensions authorized here-
49 under shall continue until one year after the date of the order and, to
50 the extent of any determination of the authority that a continuation of
51 such suspensions, to a date specified by the authority, is necessary in
52 order to achieve the objectives of the financial plan, such suspensions
53 shall be continued to the date specified by the authority, which date
54 shall in no event be later than the end of the interim finance period,
55 provided that such suspensions shall terminate with respect to employees
56 who have agreed to a deferral of salary or wage increase upon the

1 certification of the agreement by the authority pursuant to paragraph
2 (b) of this subdivision.

3 (b) This subdivision shall not be applicable to employees of the city
4 or employees of a covered organization covered by a collective bargain-
5 ing agreement or an employee of the city or a covered organization not
6 covered by a collective bargaining agreement where the collective
7 bargaining representative or such unrepresented employee has agreed to a
8 deferment of salary or wage increase, by an instrument in writing which
9 has been certified by the authority as being an acceptable and appropri-
10 ate contribution toward alleviating the fiscal crisis of the city. Any
11 such agreement to a deferment of salary or wage increase may provide
12 that for the purposes of computing the pension base of retirement allow-
13 ances, any deferred salary or wage increase may be considered as part of
14 compensation or final compensation or of annual salary earned or earna-
15 ble.

16 (c) The authority may, if it finds that the fiscal crisis has been
17 sufficiently alleviated or for any other appropriate reason, direct that
18 the suspensions of salary or wage increases or suspensions of other
19 increased payments or benefits shall, in whole or in part, be termi-
20 nated.

21 4. (a) If the authority has declared a fiscal crisis pursuant to
22 subdivision three of this section, the authority shall be empowered to
23 order a hiring freeze and suspend the hiring of new employees if the
24 authority determines that such hiring freeze is essential to the
25 adoption or maintenance of a city budget or a financial plan that is in
26 compliance with this title.

27 (b) The authority may, if it finds that the fiscal crisis has been
28 sufficiently alleviated or for any other appropriate reason, direct that
29 the suspensions of hiring shall, in whole or in part, be terminated.

30 5. (a) During any control period (i) no officer or employee of the
31 city or of any of the covered organizations shall make or authorize an
32 obligation or other liability in excess of the amount available therefor
33 under the financial plan as then in effect; (ii) no officer or employee
34 of the city or of any of the covered organizations shall involve the
35 city or any of the covered organizations in any contract or other obli-
36 gation or liability for the payment of money for any purpose required to
37 be approved by the authority unless such contract has been so approved
38 and unless such contract or obligation or liability is in compliance
39 with the financial plan as then in effect.

40 (b) No officer or employee of the city or any of the covered organiza-
41 tions shall take any action in violation of any valid order of the
42 authority or shall fail or refuse to take any action required by any
43 such order or shall prepare, present or certify any information (includ-
44 ing any projections or estimates) or report to the authority or any of
45 its agents that is false or misleading, or, upon learning that any such
46 information is false or misleading, shall fail promptly to advise the
47 authority or its agents thereof.

48 (c) In addition to any penalty or liability under any other law, any
49 officer or employees of the city or any of the covered organizations who
50 shall violate paragraph (a) or (b) of this subdivision shall be subject
51 to appropriate administrative discipline, including, when circumstances
52 warrant, suspension from duty without pay or removal from office by
53 order of either the governor or the mayor; and any officer or employees
54 of the city or any of the covered organizations who shall knowingly and
55 willfully violate paragraph (a) or (b) of this subdivision shall, upon
56 conviction, be guilty of a misdemeanor.

1 (d) In the case of a violation of paragraph (a) or (b) of this subdi-
2 vision by an officer or employee of the city or any of the covered
3 organizations, the mayor or the chief executive officer of such covered
4 organization shall immediately report to the authority all pertinent
5 facts together with a statement of the action taken thereon.

6 § 3770. Miscellaneous provisions. 1. Notwithstanding anything to the
7 contrary in title six-A of article two of the local finance law, neither
8 the city nor any covered organization shall file any petition authorized
9 by such title six-A without the approval of the authority and the state
10 comptroller. No such petition shall be filed as long as any bonds issued
11 by the authority remain outstanding. Failure of the authority or the
12 state comptroller to notify the city or a covered organization within
13 thirty days, or such additional time, not exceeding thirty days, as the
14 authority or state comptroller shall have notified the city or covered
15 organization that it requires to complete its review, after submission
16 to it of a petition shall be deemed to constitute authority or state
17 comptroller approval thereof.

18 2. Nothing contained in this title shall limit the right of the city
19 or any covered organization to comply with the provisions of any exist-
20 ing contract within or for the benefit of the holders of any bonds or
21 notes of the city or such covered organization.

22 3. Nothing contained in this title shall be construed to limit the
23 power of the city or a covered organization during any interim finance
24 period to determine, from time to time, within available funds for the
25 city or for such covered organization, the purposes for which expendi-
26 tures are to be made by the city or such covered organization and the
27 amounts of such expenditures, consistent with the aggregate expenditures
28 then permitted under the financial plan for the city or such covered
29 organization.

30 4. The authority's fiscal year shall be January first through December
31 thirty-first.

32 5. The authority shall adopt guidelines for procurement contracts in
33 accordance with section twenty-eight hundred seventy-nine of this chap-
34 ter.

35 § 3771. Effect of inconsistent provisions. Insofar as the provisions
36 of this title are inconsistent with the provisions of any other act,
37 general or special, or of any charter, local law, ordinance or resol-
38 ution of any municipality, the provisions of this title shall be
39 controlling. Nothing contained in this section shall be held to supple-
40 ment or otherwise expand the powers or duties of the authority otherwise
41 set forth in this title.

42 § 3772. Separability; construction. If any clause, sentence, para-
43 graph, section, or part of this title shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect,
45 impair or invalidate the remainder thereof, but shall be confined in its
46 operation to the clause, sentence, paragraph, section, or part thereof
47 involved in the controversy in which such judgment shall have been
48 rendered. The provisions of this title shall be liberally construed to
49 assist the effectuation of the public purposes furthered hereby.

50 § 2. Part DD of chapter 56 of the laws of 2024 relating to the city of
51 Dunkirk fiscal recovery act, is REPEALED.

52 § 3. This act shall take effect immediately.