STATE OF NEW YORK

7497

2025-2026 Regular Sessions

IN SENATE

April 21, 2025

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

AN ACT to amend the public authorities law, in relation to establishing the city of Dunkirk interim finance authority

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

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

TITLE 1-A

CITY OF DUNKIRK INTERIM FINANCE AUTHORITY

Section 3750. Short title.
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EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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3770. Miscellaneous provisions.
3771. Effect of inconsistent provisions.
3772. Separability; construction.

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

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

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

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

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

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

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

6. "City" means the city of Dunkirk.

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

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

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

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

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

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

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

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

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

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

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

18. "Presiding officer" means the presiding officer of the legislature, elected pursuant to the rules of the legislature.

19. "Projected gap" means the excess, if any, of annual aggregate projected expenditures over annual aggregate projected revenues for the major operating funds in each year of a financial plan as determined by the city and certified by the authority. For purposes of determining the projected gap in each fiscal year, annual aggregate projected revenues

shall not include the amount of NCIFA assistance or transitional state aid expected to be available for such fiscal year.

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

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

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

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

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

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

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

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

§ 3753. Administration of the authority. 1. The authority shall be administered by nine directors appointed by the governor. Of the nine directors, one each shall be appointed on the written recommendation of the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly and the state comptroller, respectively. Two of the members appointed directly by the governor and the members appointed on the recommendation of the temporary president of the senate, the recommendation of the minority leader of the senate, the recommendation of the speaker of the assembly, the recommendation of the minority leader of the assembly and the recommendation of the state comptroller shall be residents of Chautauqua county. Each director shall be appointed for a term of four years, provided however, that two of the directors first appointed by the governor shall serve for a term ending December thirty-first, two thousand twenty-nine, and the five other directors first appointed shall serve for the following terms: the directors appointed on recommendation of the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly and the state comptroller shall serve for a term ending December thirty-first, two thousand thirty and the two remaining directors first appointed directly by the governor shall serve for a term ending on December thirty-first, two thousand thirty-one. Each director shall hold office until such director's successor has been appointed and qualified. Thereafter each director shall serve a term of four years, except that any director appointed to fill a vacancy shall serve only until the expiration of their predecessor's term.

2. The governor, the temporary president of the senate, the minority leader of the senate, the speaker of the assembly, the minority leader of the assembly, and the state comptroller shall designate a chairperson and a vice-chairperson from among the directors. The chairperson shall preside over all meetings of the directors and shall have such other duties as the directors may prescribe. The vice-chairperson shall preside over all meetings of the directors in the absence of the chairperson and shall have such other duties as the directors may prescribe.

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

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

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

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

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

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

1. to sue and be sued;

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

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

4. to make and execute contracts and all other instruments or agreements necessary or convenient to carry out any powers and functions expressly given in this title;

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

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

7. as security for the payment of the principal of and interest on any bonds issued by it pursuant to this title and any agreements made in

connection therewith and for its obligations under bond facilities, to pledge all or any part of its revenues or assets;

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

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

10. to procure insurance, letters of credit or other credit enhancement with respect to arrangements described in subdivision nine of this section;

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

12. subject to the provisions of any contract with bondholders, to invest any funds held in reserves or sinking funds, or any funds not required for immediate use or disbursement, at the discretion of the authority, in (a) obligations of the state or the United States government, (b) obligations the principal and interest of which are guaranteed by the state or the United States government, (c) certificates of deposit, whether negotiable or non-negotiable, and banker's acceptances of any of the fifty largest banks in the United States which bank, at the time of investment, has an outstanding unsecured, uninsured and unguaranteed debt issue ranked in either of the two highest rating categories of two nationally recognized independent rating agencies, (d) commercial paper of any bank or corporation created under the laws of either the United States or any state of the United States which commercial paper, at the time of the investment, has received the highest rating of two nationally recognized independent rating agencies, (e) bonds, debentures, or other evidences of indebtedness, issued or guaranteed at the time of the investment by the federal national mortgage association, federal home loan mortgage corporation, student loan marketing association, federal farm credit system, or any other United States government sponsored agency, provided that at the time of the investment such agency receives, or its obligations receive, any of the three highest rating categories of two nationally recognized independent rating agencies, (f) any bonds or other obligations of any state or the United States of America or of any political subdivision thereof or any agency, instrumentality or local governmental unit of any such state or political subdivision which bonds or other obligations, at the time of the investment, have received any of the three highest ratings of two nationally recognized independent rating agencies, (g) any repurchase agreement with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a

primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York State or any national banking association domiciled in New York state, as custodian, and (h) reverse repurchase agreements with any bank or trust company organized under the laws of any state of the United States of America or any national banking association or government bond dealer reporting to, trading with, and recognized as a primary dealer by the Federal Reserve Bank of New York, which agreement is secured by any one or more of the securities described in paragraph (a), (b) or (e) of this subdivision which securities shall at all times have a market value of not less than the full amount of the repurchase agreement and be delivered to another bank or trust company organized under the laws of New York state or any national banking association domiciled in New York state, as custodian.

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

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

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

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

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

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

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

§ 3756. Bonds of the authority. 1. (a) The authority shall have the power and is hereby authorized from time to time to issue bonds in such principal amounts as it may determine to be necessary pursuant to section thirty-seven hundred fifty-five of this title to pay any financeable costs and to fund reserves to secure such bonds, including incidental expenses in connection therewith. Provided, however, the aggregate principal amounts of such bonds issued to pay the financeable city costs described in paragraph (c) of subdivision twelve of section thirty-seven hundred fifty-one of this title, which resulted from certiorari proceedings commenced on or after June first, two thousand twenty-five, shall not exceed eight hundred million dollars in the aggregate, excluding bonds, notes, or other obligations issued to refund or otherwise repay bonds, notes, or other obligations theretofore issued for such purposes. Effective in the year two thousand thirty-one, upon request of the city, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the city is a party, not to exceed fifteen million dollars; and effective in the year two thousand thirty-two, upon request of the city, the authority shall issue, in the amount requested, bonds to pay tax certiorari settlements or judgments of any kind to which the city is a party, not to exceed ten million dollars. Whenever this title establishes a limit on the principal amount of bonds that the authority is authorized to issue, there shall not be counted against such limit (i) amounts determined by the authority as reasonable to be used to pay the cost of issuing such bonds, (ii) the amount of bonds that would constitute interest under the Internal Revenue Code of 1986, as amended, and (iii) amounts determined by the authority as necessary to establish any reserves.

(b) The authority shall have the power from time to time to refund any bonds of the authority by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and may issue bonds partly to refund bonds of the authority then outstanding and partly to pay the financeable costs pursuant to section thirty-seven hundred fifty-five of this title. Bonds issued by the authority shall be payable solely out of particular revenues or other moneys of the authority as may be designated in the proceedings of the authority under which the bonds shall be authorized to be issued, subject to any agreements entered into between the authority and the city, and subject to any agreements with the holders of outstanding bonds pledging any particular revenues or moneys; but in no event shall transitional state aid be pledged as security for or be made available for the payment of bonds.

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

3. Bonds of the authority may be issued, amortized, redeemed and refunded without regard to the provisions of the local finance law; provided, however, that the principal amount of outstanding bonds issued by the authority shall be deemed to be indebtedness of the city solely in ascertaining the amount of indebtedness the city may contract pursuant to the local finance law and the state constitution and the authority shall not exceed such limitation.

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

5. The authority in its sole discretion shall determine that the issuance of its bonds is appropriate. Bonds shall be authorized by resolution of the authority. Bonds shall bear interest at such fixed or variable rates and shall be in such denominations, be in such form, either coupon or registered, be sold at such public or private sale, be executed in such manner, be denominated in United States currency, be payable in such medium of payment, at such place and be subject to such terms of redemption as the authority may provide in such resolution. No bonds of the authority may be sold at private sale unless such sale and the terms thereof have been approved in writing by (a) the state comptroller where such sale is not to the state comptroller, or (b) the director of the budget, where such sale is to the state comptroller.

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

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

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

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

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

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

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

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

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

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

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

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

11. Neither the directors of the authority nor any person executing bonds shall be liable personally thereon or be subject to any personal

liability or accountability solely by reason of the issuance thereof. The bonds or other obligations of the authority shall not be a debt of either the state or the city, and neither the state nor the city shall be liable thereon, nor shall they be payable out of any funds other than those of the authority; and such bonds shall contain on the face thereof a statement to such effect.

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

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

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

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

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

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

6. (a) This subdivision shall apply only to revenue anticipation notes, including renewals thereof, issued by the city during its fiscal year ending December thirty-first, two thousand twenty-five, in anticipation of the receipt of city tax revenues, and only to such issues of revenue anticipation notes as to which the certificate described in paragraph (b) of this subdivision is filed.

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

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

(d) Commencing on the date not less than five days prior to and on each day thereafter up to and including any principal and/or interest payment date referred to in the certificate filed by the chief fiscal officer with the authority pursuant to paragraph (b) of this subdivision, the authority shall pay to such paying agent from city tax revenues transferred and credited by the authority to the city of Dunkirk revenue anticipation note withholding fund as provided in paragraph (e) of this subdivision the amount required to pay in full the principal and/or interest due on such payment date as set forth in such certificate. Moneys so paid shall pass immediately from the authority and vest in such paying agent in trust for the benefit of the holders of the revenue anticipation notes to which such certificate relates. No other person having any claim of any kind in tort, contract or otherwise against the city shall have any right to or claim against the moneys held by such paying agent, and such moneys shall not be subject to any order, judgment, lien, execution, attachment, setoff or counterclaim by any such other person. Such moneys shall be held by such paying agent in a separate trust account and shall be applied only to the payment of the principal and/or interest due on such revenue anticipation notes, provided, however, that the contract by and between the city and such paying agent may provide for (i) the investment by such paying agent of such moneys in direct obligations of, or in obligations guaranteed by,

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

(e) Commencing on the day when the authority determines that the principal and interest due or to come due on such outstanding revenue anticipation notes issued against such city tax revenues in accordance with the provisions of this subdivision shall equal the amount of such city tax revenues as set forth on the schedule included in the certificate filed with the authority pursuant to paragraph (b) of this subdivision remaining to be paid to the city on or prior to any principal and/or interest payment date, the authority shall deduct and withhold from the amount of such city tax revenues otherwise payable to the city an amount sufficient to pay, when due, the principal of and interest on all such revenue anticipation notes issued and then outstanding in anticipation thereof. Amounts so deducted and withheld shall be transferred and credited by the authority to the account established for such city tax revenues in the city of Dunkirk revenue anticipation note withholding fund established by the authority in accordance with the chief fiscal officer's request pursuant to paragraph (b) of this subdivision. The payments required to be made by the authority pursuant to paragraph (d) of this subdivision shall be made from amounts on deposit in the accounts established for such city tax revenues in the city of Dunkirk revenue anticipation note withholding fund.

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

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

§ 3758. Agreement with the state. The state does hereby pledge to and agree with the holders of any issue of bonds issued by the authority pursuant to this title and secured by such a pledge that the state will not limit, alter or impair the rights hereby vested in the authority to fulfill the terms of any agreements made with such holders pursuant to this title, or in any way impair the rights and remedies of such holders or the security for such bonds until such bonds, together with the interest thereon and all costs and expenses in connection with any action or proceeding by or on behalf of such holders, are fully paid and discharged. The authority is authorized to include this pledge and agreement of the state in any agreement with the holders of such bonds. Nothing contained in this title shall be deemed to restrict the right of the state to amend, modify, repeal or otherwise alter statutes imposing or relating to taxes or fees, or appropriations relating thereto. The authority shall not include within any resolution, contract or agreement with holders of the bonds issued under this title any provision which provides that a default occurs as a result of the state exercising its right to amend, repeal, modify or otherwise alter such taxes, fees, or appropriations. Nothing in this title shall be deemed to obligate the state to make any payments or impose any taxes to satisfy the debt service obligations of the authority.

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

§ 3760. Bonds legal for investment and deposit. The bonds of the authority are hereby made securities in which all public officers and bodies of the state and all public corporations, municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks and savings associations including

savings and loan associations, building and loan associations, investment companies and other persons carrying on a banking business, all administrators, conservators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or in other obligations of the state, may properly and legally invest funds, including capital, in their control or belonging to them. The bonds are also hereby made securities which may be deposited with and may be received by all public officers and bodies of the state and all municipalities and public corporations for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized.

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

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

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

§ 3762. Actions against the authority. 1. Except in an action for wrongful death, no action or proceeding shall be prosecuted or maintained against the authority for personal injury or damage to real or personal property alleged to have been sustained by reason of the negligence or wrongful act of the authority or of any director, officer, agent or employee thereof, unless (a) it shall appear by and as an allegation in the complaint or moving papers that a notice of claim shall have been made and served upon the authority, within the time limit prescribed by and in compliance with section fifty-e of the general municipal law, (b) it shall appear by and as an allegation in the complaint or moving papers that at least thirty days have elapsed since the service of such notice and that adjustment or payment thereof has been neglected or refused, and (c) the action or proceeding shall be commenced within one year after the happening of the event upon which the claim is based. An action against the authority for wrongful death shall be commenced in accordance with the notice of claim and time limitation provisions of title eleven of article nine of this chapter.

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

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

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

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

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

7. (a) The state shall save harmless and indemnify directors, officers and employees of and representatives to the authority, all of whom shall be deemed officers and employees of the state for purposes of section seventeen of the public officers law, against any claim, demand, suit, or judgment arising by reason of any act or omission to act by such director, officer, employee or representative occurring in the discharge of their duties and within the scope of their service on behalf of the authority including any claim, demand, suit or judgment based on allegations that financial loss was sustained by any person in connection with the acquisition, disposition or holding of securities or other obligations. In the event of any such claim, demand, suit or judgment, a director, officer or employee of or representative to the authority shall be saved harmless and indemnified, notwithstanding the limitations of subdivision one of section seventeen of the public officers law, unless such individual is found by a final judicial determination not to have acted, in good faith, for a purpose which such individual reasonably believed to be in the best interest of the authority or not to have had reasonable cause to believe that such individual's conduct was lawful.

(b) In connection with any such claim, demand, suit, or judgment, any director, officer or employee of or representative to the authority shall be entitled to representation by private counsel of their choice in any civil judicial proceeding whenever the attorney general determines based upon the attorney general's investigation and review of the facts and circumstances of the case that representation by the attorney general would be inappropriate. The attorney general shall notify the individual in writing of such determination that the individual is entitled to be represented by private counsel. The attorney general may require, as a condition to payment of the fees and expenses of such representative, that appropriate groups of such individuals be represented by the same counsel. If the individual or groups of individuals is

entitled to representation by private counsel under the provisions of this section, the attorney general shall so certify to the state comptroller. Reasonable attorneys' fees and litigation expenses shall be paid by the state to such private counsel from time to time during the pendency of the civil action or proceeding, subject to certification that the individual is entitled to representation under the terms and conditions of this section by the authority, upon the audit and warrant of the state comptroller. The provisions of this subdivision shall be in addition to and shall not supplant any indemnification or other benefits heretofore or hereafter conferred upon directors, officers, or employees of and representatives to the authority by section seventeen of the public officers law, by action of the authority or otherwise. The provisions of this subdivision shall inure only to directors, officers and employees of and representatives to the authority, shall not enlarge or diminish the rights of any other party, and shall not impair, limit or modify the rights and obligations of any insurer under any policy of insurance.

§ 3763. Audits. 1. The accounts of the authority shall be subject to the audit of the fiscal affairs officer and the state comptroller. In addition, the authority shall be subject to an annual financial audit performed by an independent certified accountant selected by the authority. Such audit report shall be submitted to the mayor, the presiding officer, the comptroller, the governor, the state comptroller, the chair and ranking minority member of the senate finance committee and the chair and ranking minority member of the assembly ways and means committee.

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

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

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

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

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

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

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

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

3. Such trustee shall, in addition to the provisions of subdivisions one and two of this section, have and possess all of the powers necessary or appropriate for the exercise of any functions specifically set forth in this section or incident to the general representation of bondholders in the enforcement and protection of their rights.

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

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

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

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

2. In order that such budget modification be effective on or before June thirtieth, two thousand twenty-five, the mayor shall within seven days following the effective date of this title submit a proposed modification to the legislature. Within seven days thereafter, the legislature shall approve such modification or a substitute modification. Upon approval by the legislature, the mayor shall submit such modification to the authority. Not later than ten days after such budget modification shall have been submitted to the authority, the authority shall approve or disapprove such modification, provided that the authority may approve such modification only upon its determination that such modification when implemented will ensure such reduction of the projected gap for each fiscal year as required by subdivision one of this section.

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

§ 3767. City financial plans. 1. (a)(i) The mayor shall prepare and submit to the authority a four-year financial plan, initially for the

fiscal years ending December thirty-first, two thousand twenty-six through two thousand twenty-nine, together with the proposed budget for the fiscal year ending on December thirty-first, two thousand twenty-six, not later than the date required for submission of such budget to 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:

Amount	Fiscal Year
2026 amount	2026
2027 amount	2027
2028 amount	2028
2029 amount	2029.

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

(a) The mayor shall prepare and submit to the authority and the legislature a revised financial plan covering the four year period beginning with the ensuing fiscal year, together with the proposed budget for the ensuing fiscal year, not later than the date required for submission of such budget pursuant to the city charter. On such dates, the mayor shall also submit to the authority a certificate stating that such budget is consistent with the financial plan submitted therewith and that operation within the budget is feasible.

(b) Not more than twenty days after submission of a financial plan or more than fifteen days after submission of a financial plan modification, the authority shall determine whether the financial plan or financial plan modification is complete and complies with the provisions of section thirty-seven hundred sixty-six and this section and the other requirements of this title, and shall submit its recommendations with respect to the financial plan or financial plan modification in accordance with the provisions of this subdivision.

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

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

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

(i) is incomplete;

(ii) fails to contain projections of revenues and expenditures that are based on reasonable and appropriate assumptions and methods of estimation;

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

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

(f) After the initial adoption of an approved financial plan, the revenue estimates certified by the authority and the financial plan shall be regularly reexamined by the authority in consultation with the city and the covered organizations and the mayor shall provide a modified financial plan in such detail and within such time periods as the

authority may require. In the event of reductions in such revenue estimates, or in the event the city or a covered organization shall expend funds at a rate that would exceed the aggregate expenditure limitation for the city or covered organization prior to the expiration of the fiscal year, the mayor shall submit a financial plan modification to effect such adjustments in revenue estimates and reductions in total expenditures as may be necessary to conform to such revised revenue estimates or aggregate expenditure limitations.

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

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

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

4. The financial plan shall include any information which the authority may request to satisfy itself that (a) projected employment levels, collective bargaining agreements and other actions relating to employee costs, capital construction and such other matters as the authority may specify are consistent with the provisions made for such obligations in the financial plan, (b) the city and the covered organizations are taking whatever action is necessary with respect to programs mandated by state and federal law to ensure that expenditures for such programs are limited to and covered by the expenditures stated in the financial plan, (c) adequate reserves are provided to maintain essential programs in the event revenues have been overestimated or expenditures underestimated for any period, and (d) the city has adequate cash resources to meet its obligations. In addition, except to the extent such reporting requirements may be modified pursuant to agreement between the authority and the city, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the mayor shall prepare a quarterly report of summarized budget data depicting overall trends of actual revenues and budget expenditures for the entire budget rather than individual line items and updated quarterly cash flow projections of receipts and disbursements. Such reports shall compare revenue estimates and appropriations as set forth in such budget and in the quarterly revenue and expenditure projections submitted therewith with the actual revenues and expenditures made to date. Such reports shall also compare actual receipts and disbursements with the estimates contained in the cash flow projections, together with vari-

ances and their explanation. All quarterly reports shall be accompanied by recommendations from the mayor to the legislature setting forth any remedial action necessary to resolve any unfavorable budget variance including the overestimation of revenues and the underestimation of appropriations. These reports shall be completed within thirty days after the end of each quarter and shall be submitted to the legislature, the authority, the director of the budget and the state comptroller. Except during a control period, for each fiscal year occurring during the interim finance period or while bonds issued pursuant to this title are outstanding, the mayor shall submit a proposed budget or revision thereto to the authority concurrent with submission to the legislature, and shall submit the adopted budget to the authority immediately upon its adoption.

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

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

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

1. conduct meetings at least annually;

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

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

4. recommend to the city and the covered organizations such measures relating to their operation, management, efficiency and productivity as

the authority deems appropriate to reduce costs and improve services so as to advance the purposes of this title;

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

6. with respect to any city borrowing proposed to be issued after July first, two thousand twenty-five, review the terms of and comment, within thirty days after notification by the city of a proposed borrowing, on the prudence of each proposed issuance of bonds or notes to be issued by the city and no such borrowing shall be made unless first reviewed and commented upon by the authority. The authority shall provide such comments within thirty days after notification by the city of a proposed borrowing to the mayor, the fiscal affairs officer, the legislature, the director of the budget and the state comptroller;

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

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

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

2. In carrying out the purposes of this title during any control period:

(a) The authority shall (i) consult with the city and the covered organizations in the preparation of the financial plan, and certify to the city the revenue estimates approved therein, (ii) prescribe the form of the financial plan and the supporting information required in connection therewith, (iii) exercise the rights of approval, disapproval and modification with respect to the financial plan, including but not limited to the revenue estimates contained therein, and (iv) in the event the authority has made the finding required under section thirty-seven hundred sixty-seven of this title, formulate and adopt its modifications to the financial plan, such modifications to become effective on their adoption by the authority.

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

(c) The authority shall (i) receive from the city and the covered organizations and from the state comptroller, and review, such financial statements and projections, budgetary data and information, and management reports and materials as the authority deems necessary or desirable to accomplish the purposes of this title, and (ii) inspect, copy and audit such books and records of the city and the covered organizations as the authority deems necessary or desirable to accomplish the purposes of this title.

(d) All contracts entered into by the city or any covered organization during any control period must be consistent with the provisions of this title and must comply with the requirements of the financial plan as approved by the authority. With respect to all contracts or other obligations to be entered into by the city or any covered organization during any control period requiring the payment of funds or the incurring of costs by the city or any covered organizations:

(i) Within twenty days from the commencement of a control period, the mayor shall present to the authority proposed guidelines respecting the categories and types of contracts and other obligations required to be reviewed by the authority pursuant to this subdivision. Any such guidelines may provide a different standard for review with respect to contracts of any covered organization as the authority shall determine. Within thirty days from the commencement of a control period, the authority shall approve or modify and approve such proposed guidelines or promulgate its own in the event that such proposed guidelines are not submitted to it within the twenty days as provided for herein. Such guidelines may thereafter be modified by the authority from time to time on not less than thirty days' notice to the mayor and the mayor may from time to time propose modifications to the authority. Unless expressly

disapproved or modified by the authority within thirty days, or such additional time, not exceeding thirty days, as the authority shall have notified the city or covered organization that it requires to complete it's review and analysis, from the date of submission by the mayor, any such proposed guidelines or modifications shall be deemed approved by the authority;

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

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

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

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

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

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

3. (a) During a control period, upon a finding by the authority that a wage freeze is essential to the adoption or maintenance of a city budget or a financial plan that is in compliance with this title, the authority, after enactment of a resolution so finding, may declare a fiscal crisis. Upon making such a declaration, the authority shall be empowered to order that all increases in salary or wages of employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards, now in existence or

hereafter entered into, requiring such salary increases as of any date thereafter are suspended. Such order may also provide that all increased payments for holiday and vacation differentials, and shift differentials for employees of the city and employees of covered organizations which will take effect after the date of the order pursuant to collective bargaining agreements, other analogous contracts or interest arbitration awards requiring such increased payments as of any date thereafter are, in the same manner, suspended. Such order may also provide that all increased payments for salary adjustments according to plan and step-ups or increments be suspended; provided, however, when (i) the mayor provides a four year financial plan approved by the city legislature pursuant to paragraph (a) of subdivision two of section thirty-seven hundred sixty-seven of this title and the authority determines, pursuant to paragraph (b) of such subdivision, that such financial plan is complete and complies with the standards set forth in such subdivision, and (ii) the authority makes a certification to the city setting forth revenue estimates agreed to by the authority in accordance with such determination, the salary adjustments according to plan and step-ups or increments, not including cost of living increases, shall not be suspended for each year in which the four year financial plan has been certified. This inability to suspend the salary adjustments according to plan and step-ups or increments shall be applicable to city employees and employees of covered organizations, whether or not they are covered by a collectively negotiated agreement, if an individual employee or members of an employee's bargaining unit previously participated in a wage freeze implemented by the authority under this section and such wage freeze was subsequently lifted by the authority by the issuance of a resolution, pursuant to paragraph (b) or (c) of this subdivision, certifying that the suspension of their wage increases or an agreement by the collective bargaining representative or by such unrepresented employee was an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. Irrespective of the duration of any approved or accepted four year financial plan, for employees who are members of a bargaining unit, this inability to suspend the salary adjustment according to plan and step-ups or increments shall take effect October first, two thousand forty-one and shall be in effect for employees for the duration of the next collective bargaining agreement succeeding either (i) the collective bargaining agreement in effect on November sixth, two thousand forty-three or (ii) the most recently expired collective bargaining agreement prior to November sixth, two thousand forty-three; whichever is later. If the succeeding collective bargaining agreement's duration is modified, extended, or renewed, this modification, extension or renewal does not modify, extend or renew the term of the inability to suspend salary adjustments according to plan and step-ups or increments. For employees who are not members of a bargaining unit, this inability to suspend the salary adjustment according to plan and step-ups or increments shall be effective October first, two thousand forty-one through December first, two thousand forty-six. For the purposes of computing the pension base of retirement allowances, any suspended salary or wage increases and any suspended other payments shall not be considered as part of compensation or final compensation or of annual salary earned or earnable. The suspensions authorized hereunder shall continue until one year after the date of the order and, to the extent of any determination of the authority that a continuation of such suspensions, to a date specified by the authority, is necessary in order to achieve the objectives of the financial plan, such suspensions

shall be continued to the date specified by the authority, which date shall in no event be later than the end of the interim finance period, provided that such suspensions shall terminate with respect to employees who have agreed to a deferral of salary or wage increase upon the certification of the agreement by the authority pursuant to paragraph (b) of this subdivision.

(b) This subdivision shall not be applicable to employees of the city or employees of a covered organization covered by a collective bargaining agreement or an employee of the city or a covered organization not covered by a collective bargaining agreement where the collective bargaining representative or such unrepresented employee has agreed to a deferment of salary or wage increase, by an instrument in writing which has been certified by the authority as being an acceptable and appropriate contribution toward alleviating the fiscal crisis of the city. Any such agreement to a deferment of salary or wage increase may provide that for the purposes of computing the pension base of retirement allowances, any deferred salary or wage increase may be considered as part of compensation or final compensation or of annual salary earned or earnable.

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

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

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

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

(b) No officer or employee of the city or any of the covered organizations shall take any action in violation of any valid order of the authority or shall fail or refuse to take any action required by any such order or shall prepare, present or certify any information (including any projections or estimates) or report to the authority or any of its agents that is false or misleading, or, upon learning that any such information is false or misleading, shall fail promptly to advise the authority or its agents thereof.

(c) In addition to any penalty or liability under any other law, any officer or employees of the city or any of the covered organizations who shall violate paragraph (a) or (b) of this subdivision shall be subject to appropriate administrative discipline, including, when circumstances warrant, suspension from duty without pay or removal from office by

order of either the governor or the mayor; and any officer or employees of the city or any of the covered organizations who shall knowingly and willfully violate paragraph (a) or (b) of this subdivision shall, upon conviction, be guilty of a misdemeanor.

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

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

2. Nothing contained in this title shall limit the right of the city or any covered organization to comply with the provisions of any existing contract within or for the benefit of the holders of any bonds or notes of the city or such covered organization.

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

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

5. The authority shall adopt guidelines for procurement contracts in accordance with section twenty-eight hundred seventy-nine of this chapter.

§ 3771. Effect of inconsistent provisions. Insofar as the provisions of this title are inconsistent with the provisions of any other act, general or special, or of any charter, local law, ordinance or resolution of any municipality, the provisions of this title shall be controlling. Nothing contained in this section shall be held to supplement or otherwise expand the powers or duties of the authority otherwise set forth in this title.

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

§ 2. This act shall take effect immediately.