

STATE OF NEW YORK

7497--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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

3 TITLE 1-A

4 CITY OF DUNKIRK INTERIM FINANCE AUTHORITY

5 Section 3750. Short title.

6 3751. Definitions.

7 3752. City of Dunkirk interim finance authority.

8 3753. Administration of the authority.

9 3754. General powers of the authority.

10 3755. Declaration of need.

11 3756. Bonds of the authority.

12 3757. Resources of the authority.

13 3758. Agreement with the state.

14 3759. Agreement with the city.

15 3760. Bonds legal for investment and deposit.

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

17 3762. Actions against the authority.

18 3763. Audits.

19 3764. Remedies of bondholders.

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

21 3766. 2025 fiscal year budget modification.

22 3767. City financial plans.

23 3768. Monitoring and review.

24 3769. Control period.

25 3770. Miscellaneous provisions.

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

LBD11445-04-5

1 3771. Effect of inconsistent provisions.

2 3772. Separability; construction.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

42 1. to sue and be sued;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 § 3758. Agreement with the state. The state does hereby pledge to and
2 agree with the holders of any issue of bonds issued by the authority
3 pursuant to this title and secured by such a pledge that the state will
4 not limit, alter or impair the rights hereby vested in the authority to
5 fulfill the terms of any agreements made with such holders pursuant to
6 this title, or in any way impair the rights and remedies of such holders
7 or the security for such bonds until such bonds, together with the
8 interest thereon and all costs and expenses in connection with any
9 action or proceeding by or on behalf of such holders, are fully paid and
10 discharged. The authority is authorized to include this pledge and
11 agreement of the state in any agreement with the holders of such bonds.
12 Nothing contained in this title shall be deemed to restrict the right of
13 the state to amend, modify, repeal or otherwise alter statutes imposing
14 or relating to taxes or fees, or appropriations relating thereto. The
15 authority shall not include within any resolution, contract or agreement
16 with holders of the bonds issued under this title any provision which
17 provides that a default occurs as a result of the state exercising its
18 right to amend, repeal, modify or otherwise alter such taxes, fees, or
19 appropriations. Nothing in this title shall be deemed to obligate the
20 state to make any payments or impose any taxes to satisfy the debt
21 service obligations of the authority.

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

51 § 3760. Bonds legal for investment and deposit. The bonds of the
52 authority are hereby made securities in which all public officers and
53 bodies of the state and all public corporations, municipalities and
54 municipal subdivisions, all insurance companies and associations and
55 other persons carrying on an insurance business, all banks, bankers,
56 trust companies, savings banks and savings associations including

1 savings and loan associations, building and loan associations, invest-
2 ment companies and other persons carrying on a banking business, all
3 administrators, conservators, guardians, executors, trustees and other
4 fiduciaries, and all other persons whatsoever who are now or may here-
5 after be authorized to invest in bonds or in other obligations of the
6 state, may properly and legally invest funds, including capital, in
7 their control or belonging to them. The bonds are also hereby made secu-
8 rities which may be deposited with and may be received by all public
9 officers and bodies of the state and all municipalities and public
10 corporations for any purpose for which the deposit of bonds or other
11 obligations of the state is now or may hereafter be authorized.

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

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

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

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

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

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

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

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

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

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

45 (b) In connection with any such claim, demand, suit, or judgment, any
46 director, officer or employee of or representative to the authority
47 shall be entitled to representation by private counsel of their choice
48 in any civil judicial proceeding whenever the attorney general deter-
49 mines based upon the attorney general's investigation and review of the
50 facts and circumstances of the case that representation by the attorney
51 general would be inappropriate. The attorney general shall notify the
52 individual in writing of such determination that the individual is enti-
53 tled to be represented by private counsel. The attorney general may
54 require, as a condition to payment of the fees and expenses of such
55 representative, that appropriate groups of such individuals be repres-
56 ented by the same counsel. If the individual or groups of individuals is

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

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

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

31 § 3764. Remedies of bondholders. Subject to any resolution or resol-
32 utions adopted pursuant to paragraph (f) of subdivision seven of section
33 thirty-seven hundred fifty-six of this title:

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

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

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

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

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

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

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

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

8 § 3765. Assistance to the authority; employees of the authority. 1.
9 With the consent of any public corporation, the authority may use
10 agents, employees and facilities thereof, paying to such public corpo-
11 ration its agreed proportion of the compensation or costs.

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

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

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

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

55 § 3767. City financial plans. 1. (a)(i) The mayor shall prepare and
56 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:

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

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

(b) As used in this subdivision:

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

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

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

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

2. Pursuant to the procedures contained in this subdivision, each year during the interim finance period or during a control period the city shall develop, and may from time to time modify, taking into account recommendations of the authority, a four year financial plan covering the city and the covered organizations. Each such financial plan and

1 financial plan modification shall conform to the requirements of para-
2 graph (a) of this subdivision and shall provide that the major operating
3 funds of the city will be balanced in accordance with generally accepted
4 accounting principles. The financial plan shall be developed and
5 approved, and may from time to time be modified, in accordance with the
6 following procedures:

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

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

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

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

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

43 (i) is incomplete;

44 (ii) fails to contain projections of revenues and expenditures that
45 are based on reasonable and appropriate assumptions and methods of esti-
46 mation;

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

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

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

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

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

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

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

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

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

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

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

39 § 3768. Monitoring and review. Except as otherwise provided in section
40 thirty-seven hundred sixty-nine of this title, the authority shall:

41 1. conduct meetings at least annually;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 hereafter entered into, requiring such salary increases as of any date
2 thereafter are suspended. Such order may also provide that all increased
3 payments for holiday and vacation differentials, and shift differentials
4 for employees of the city and employees of covered organizations which
5 will take effect after the date of the order pursuant to collective
6 bargaining agreements, other analogous contracts or interest arbitration
7 awards requiring such increased payments as of any date thereafter are,
8 in the same manner, suspended. Such order may also provide that all
9 increased payments for salary adjustments according to plan and step-ups
10 or increments be suspended; provided, however, when (i) the mayor
11 provides a four year financial plan approved by the city legislature
12 pursuant to paragraph (a) of subdivision two of section thirty-seven
13 hundred sixty-seven of this title and the authority determines, pursuant
14 to paragraph (b) of such subdivision, that such financial plan is
15 complete and complies with the standards set forth in such subdivision,
16 and (ii) the authority makes a certification to the city setting forth
17 revenue estimates agreed to by the authority in accordance with such
18 determination, the salary adjustments according to plan and step-ups or
19 increments, not including cost of living increases, shall not be
20 suspended for each year in which the four year financial plan has been
21 certified. This inability to suspend the salary adjustments according to
22 plan and step-ups or increments shall be applicable to city employees
23 and employees of covered organizations, whether or not they are covered
24 by a collectively negotiated agreement, if an individual employee or
25 members of an employee's bargaining unit previously participated in a
26 wage freeze implemented by the authority under this section and such
27 wage freeze was subsequently lifted by the authority by the issuance of
28 a resolution, pursuant to paragraph (b) or (c) of this subdivision,
29 certifying that the suspension of their wage increases or an agreement
30 by the collective bargaining representative or by such unrepresented
31 employee was an acceptable and appropriate contribution toward alleviat-
32 ing the fiscal crisis of the city. Irrespective of the duration of any
33 approved or accepted four year financial plan, for employees who are
34 members of a bargaining unit, this inability to suspend the salary
35 adjustment according to plan and step-ups or increments shall take
36 effect October first, two thousand forty-one and shall be in effect for
37 employees for the duration of the next collective bargaining agreement
38 succeeding either (i) the collective bargaining agreement in effect on
39 November sixth, two thousand forty-three or (ii) the most recently
40 expired collective bargaining agreement prior to November sixth, two
41 thousand forty-three; whichever is later. If the succeeding collective
42 bargaining agreement's duration is modified, extended, or renewed, this
43 modification, extension or renewal does not modify, extend or renew the
44 term of the inability to suspend salary adjustments according to plan
45 and step-ups or increments. For employees who are not members of a
46 bargaining unit, this inability to suspend the salary adjustment accord-
47 ing to plan and step-ups or increments shall be effective October first,
48 two thousand forty-one through December first, two thousand forty-six.
49 For the purposes of computing the pension base of retirement allowances,
50 any suspended salary or wage increases and any suspended other payments
51 shall not be considered as part of compensation or final compensation or
52 of annual salary earned or earnable. The suspensions authorized here-
53 under shall continue until one year after the date of the order and, to
54 the extent of any determination of the authority that a continuation of
55 such suspensions, to a date specified by the authority, is necessary in
56 order to achieve the objectives of the financial plan, such suspensions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

56 § 3. This act shall take effect immediately.