§ 120-u. Mutual aid for water service. 1. As used in this section:
(a) "Municipal corporations," "municipality" or "municipal" means and includes any city, village, district corporation or public benefit corporation, which owns and operates a water system for domestic, commercial or public uses; a suburban town operating a water system as a special improvement, with respect to such system; and subject to the provisions of subdivision thirteen, a town or county water district;

(b) "Water system" means and includes all the pipes, pumping stations, elevated tanks and other structures and appurtenances necessary to the delivery of water under pressure and owned and operated by a municipality, water works corporation, industrial corporation or other water purveyor;

(c) "Interconnection" means and includes all of the piping, valves, pumps or other appurtenances installed between two different water systems which are necessary to make it possible for water from either system to be supplied to the other;

(d) "State coordinator" means the state coordinator of water supply appointed by the state commissioner of health pursuant to the provisions of this section;

(e) "Emergency" means a temporary condition of failure or inadequacy of the supply of water resulting from stress of weather, convulsion of nature, fire, failure of power, mechanical breakdown, breakage or stoppage of mains and other portions of the waterworks system either from accident, malice, acts of war or civil commotion, or other generally unforeseeable events and temporary interruptions of service due to repairs, replacements or extensions.

2. It is hereby found, determined and declared to be in the public interest that a mutual aid plan for water service in event of possible emergency be established for municipalities, water works corporations, industrial corporations and other purveyors of water in this state; that an adequate and continued supply of water to all the people of the state is a public purpose vital to the public health and welfare; and that any municipality in the exercise of its powers hereunder will be performing an essential governmental function vital to the public security and for the protection of the property of the municipality and its inhabitants.

3. Notwithstanding any inconsistent provision of this chapter or of any other general, special or local law or charter provision, except the applicable provisions of the public health and conservation laws, every municipality shall have, and whenever the governing body of the municipality shall determine that the public interest so requires, may exercise, the power:

(a) to construct, operate and maintain an interconnection for emergency use between its water system and any other water system under such arrangement for payment of costs and emergency use of the same as may be agreed upon by the municipality and authorities in charge of such other water system and to acquire necessary lands, easements or other interests in land and rights of way therefor either within or outside the municipality for that purpose;

(b) to construct necessary waterlines to extend water service for emergency use and to acquire necessary lands, easements or other interests in lands and rights of way therefor either within or outside of the municipality for that purpose;

(c) to buy water or to sell water delivered through any interconnection during an emergency whether or not there be an excess of water for the selling municipality;

(d) to enter into agreement with any other municipality, water works corporation, industrial corporation or other purveyor of water as to the rate or charge to be paid for water delivered through an interconnection during an emergency, which rate shall not include any standby charge nor exceed the rate charged in the selling municipality or in case of a water works corporation, the rate allowed by the public service commission for a like amount of water supplied to consumers;

(e) to loan or borrow temporarily or to rent for stated periods of time or to buy or sell water works equipment, materials or supplies provided that when such are loaned or rented the borrower or lessee shall be liable for any damage to or loss of the equipment, materials, or supplies while lawfully in its possession;

(f) to temporarily assign any water works official or employee of the municipality for the rendition of personal services to another municipality, water works corporation, industrial corporation or other purveyor of water without diminution of pay or loss of any civil service or retirement rights provided that the borrower shall reimburse the

municipality for all transportation charges and other expenses incurred in connection with such assignment and for all salaries and wages earned by such official or employee during the period of his temporary assignment and provided that the borrower shall reimburse the loaning municipality for the amount of any pay, compensation or awards made as a result of the disability or death from injury of any such official or employee while so assigned. Any such official or employee shall be deemed to continue in the employ of the loaning municipality while so assigned;

(g) to enter into any contract or arrangement necessary to give full effect to the provisions of this section;

(h) except as otherwise expressly provided in this section, the powers of a municipal corporation relating to the construction of an interconnection or extension, including the furnishing of labor, materials, supplies or equipment may be exercised by resolution and without other authorization and shall not be subject to any petition or notice or hearing or permissive or mandatory referendum or approval by any local authority. The powers granted by this section are in addition to and not restrictive of any powers otherwise granted by law.

3-a. Each municipality providing service to residents of a county with a population of one million two hundred fifty thousand or more which is not wholly contained within a city shall meter service to its customers within two years of the effective date of this subdivision.

4. Interconnections or extensions located wholly or in part outside the bounds of the municipality shall be constructed in accordance with the provisions of law, ordinance or regulation applicable to the construction of municipal public works located within the constructing municipality. The making of such interconnections and the continued supply of water through any such interconnection located wholly or in part outside of the bounds of the municipality for a period not longer than the necessary and unavoidable duration of the emergency and in no case for a period longer than six months shall not require the previous consent and approval of the water resources commission. However, extension of water service outside the bounds of a municipality shall require the prior consent and approval of the water resources

commission. The municipalities, water works corporations, industrial corporations or other purveyors of water which shall have their water systems interconnected for emergency purposes shall have joint control, possession and supervision over such interconnections under the terms of a joint agreement to be effected by them and shall have all the rights, privileges and jurisdiction necessary or proper for carrying such powers into execution. No provision of this section shall operate to limit or restrict any municipal power otherwise granted by law.

5. Whenever a municipal corporation shall have authorized the construction of the whole or part of any interconnection, or any extension of a line to provide water service, the officers charged by law with the duty shall prepare a map or plan of the improvement. No contract shall be entered into for the construction of the interconnection or extension nor shall any rights of way be acquired therefor nor shall any expense be incurred by any municipality, except for the preparation of the map or plan of the improvement, until such map and plan, if it be for an interconnection, shall be presented to and approved by the state coordinator, nor until such map and plan if it be for an extension shall be presented to and approved by the water resources commission with such modifications, if any, as he or it, as the case may be, shall determine. Upon approval of plans for an interconnection, the state coordinator shall file a certificate thereof with the clerk or corresponding officer of the municipality proposing the improvement and in the case of a town or county water district, with the town clerk of the town in which such town district is located, or with the county clerk of the county in which such county district is located, as the case may be. Whenever a municipal corporation shall propose to construct an interconnection jointly with another municipal corporation, or jointly with a water works corporation, industrial corporation or other purveyor of water, the proposals shall provide the portion of the expense to be borne by each and shall be submitted to the state coordinator for approval. The submission of proposals by a municipal corporation for the construction of an interconnection jointly with another municipal corporation, water works corporation, industrial corporation or other purveyor of water, shall not bind the municipality to the performance of the work or of any part thereof, and any such

municipal corporation may withdraw from the proposal at any time prior to the execution of the contract for the performance of the work. The municipal corporation shall have power to acquire by purchase or eminent domain proceedings, lands and easement rights necessary for the improvement both within and outside of the municipality. This section, however, shall not authorize the taking of any lands already devoted to a public use. In any proceeding for the acquisition of lands or easement rights or other interests in land where the municipality is unable to acquire the same by purchase, the municipality may acquire such lands pursuant to the provisions of the eminent domain procedure law.

6. Whenever any interconnection or extension shall cross any railroad property, the lines shall be made to cross under such railroad with the least injury practicable and unless the right to cross the same shall be acquired by agreement, compensation shall be ascertained and made to the owners thereof in the manner prescribed by this section for acquisition of rights of way of lands and easements from private owners. No exclusive title or use shall be so acquired as against any railroad; but the rights acquired shall be a common use of the lands in such manner as to be of the least practical injury to such railroad consistent with the use thereof for such interconnection or extension; nor shall any municipal corporation take or use any lands, fixtures or erections of any railroad corporation or have the right to acquire the right to run along or upon the lands of any railroad corporation except for the purpose of directly crossing the same.

7. No interconnection shall be constructed between a public water system and the water supply of any industry without approval of the state coordinator of water supply and the state department of health.

8. No interconnection or extension shall be constructed along, upon or under any state highway without the consent of the state commissioner of transportation; nor along, upon or under any county road without the consent of the county or district superintendent of highways of such county; nor along, upon or under any town highway without the consent of the town superintendent of highways of such town; nor upon any state lands without the consent of the commissioner of general services who

shall have power to grant the right to any municipal or other corporation to cross state lands upon such terms and conditions as the commissioner may require.

9. No interconnection or extension shall be constructed by any municipality or water works corporation into or through any other city, town or village in the state unless authorized by a resolution prescribing the route, manner of construction and terms upon which permission is granted, adopted at a regular or special meeting of the legislative body of such other city, town or village by a majority vote. Any such interconnection or extension, or portion thereof, may, however, be constructed into or through any such city, town or village without the consent of local authorities, if such local authorities do not either grant or refuse the consent within two weeks after the application is filed.

No pavement shall be removed in any city, village or town unless done under the direction of the official, board or body having charge of the construction and repair of pavements, nor until such municipal corporation or water works corporation shall give a bond in such sum as the local legislative body may require for the replacement and restoration of any pavements which shall have been removed or damaged.

10. The lands taken or to be taken for the construction, operation and maintenance of interconnections, or portions thereof, shall be subject to taxation in the manner prescribed by law, exclusive of underground pipelines or conduits which shall be exempt from taxation; provided, however, in the event such pipeline or conduit, or portion thereof, within a taxable district, is actually used for water supply for a total period of more than one hundred eighty days in any year ending on July first, then such pipeline or conduit, or portion thereof, shall constitute taxable property and may be taxed in the manner prescribed by law on the next tax-roll. The provisions of this subdivision, however, shall not be construed to make taxable any property expressly exempted from taxation under the provisions of article fourteen-c of this chapter or any other general or special law.

11. The municipality, water works corporation, industrial corporation or other purveyor of water to which the official or employee of any other municipality is temporarily assigned for the rendition of personal services shall be liable and accountable for any act or omission on the part of any such official or employee while so assigned and shall reimburse the loaning municipality for the amount of any pay, compensation or awards made as a result of any such act or omission on the part of such official or employee while so assigned. The municipality, water works corporation, industrial corporation or other purveyor of water which borrows or rents water works materials, equipment or supplies from another municipality shall be liable and accountable for any damages sustained resulting from the use, operation or maintenance of such materials, equipment or supplies while in its possession and shall reimburse the loaning municipality for the amount of any pay, compensation or awards made as a result of such damages sustained during the loan or rental period. In any action brought for the recovery of such damages, the borrowing municipality shall have the right to intervene as a party defendant.

12. To further the purposes of this section, to promote the installation of needed interconnections and the reinforcement of water supply systems to meet any possible emergency conditions and to facilitate the interchange of water works personnel, equipment, materials or supplies between municipalities, water works corporations, industrial corporations or other purveyors of water in event of emergencies, the state commissioner of health may appoint a state coordinator of water supply and may divide the state into any number of water service zones and appoint zone coordinators of water supply and assistant zone coordinators of water supply who shall be officials or employees of the state department of health, municipal or county departments of health or public works or municipal water works and shall serve without additional compensation for services rendered under or pursuant to the provisions of this section. It shall be the duty of all local water officials to cooperate with the state and zone water supply coordinators on all matters related to mutual aid for water service.

The state coordinator shall have power:

(a) to investigate and study existing water systems in the state as to the need for their reinforcement, integration or interconnection to meet the requirements of any public emergency;

(b) to collect and disseminate information and data and to engage in technical studies, scientific investigations and statistical research relating to interconnecting water systems;

(c) to collect and disseminate information and data on the extent and availability of water personnel, water equipment and other water works materials and supplies;

(d) to ask for and receive aid and assistance from zone coordinators, assistant zone coordinators and municipal and water works officials in the performance of his duties;

(e) to review and coordinate plans and preparations for exchange of personnel, equipment, materials and supplies between municipalities or between municipalities and water works corporations, water districts and industrial corporations in an emergency;

(f) to review and approve or disapprove plans for the interconnection of water systems.

Each zone coordinator, with the assistance of the assistant zone coordinator shall have jurisdiction within the water service zone in and for which he is appointed;

(a) to aid in the preparation of plans for water interconnections or extensions;

(b) to tabulate the extent and availability of personnel, equipment and other water works materials and supplies;

(c) to formulate plans for the expeditious use of the available personnel, equipment and other water works materials and supplies in case of an emergency.

13. The powers granted to a town or county water district may be exercised only by the town board of the town in which such town district is located, or by the board of supervisors of the county in which such county district is located, as the case may be, subject to the following conditions, limitations and exceptions:

(a) Notwithstanding the provisions of section one hundred ninety-seven of the town law, or section two hundred sixty-two of the county law, as

the case may be, prohibiting the award of contracts if the total expense of the improvement shall exceed the maximum amount proposed to be expended for the improvement as stated in the petition, or the notice of hearing published, as the case may be, for the establishment or extension of the district, the town board, in the case of a town district, may direct the town engineer, or if there be no town engineer, a competent civil engineer duly licensed by the state of New York, to prepare a map and general plan, or the board of supervisors, in the case of a county district, may direct the county water agency to cause a map and general plan to be prepared, for the construction of an interconnection between the water system of the district and any other water system or for the construction of an extension of the water system of the district and to prepare an estimate of the portion of the expense thereof to be borne by the district. When such map, plan and estimate for a town district are submitted, the town board shall call a public hearing thereon and cause a notice thereof to be published and posted and such hearing to be held, all in the manner provided in section two hundred and two-b of the town law. After such hearing and from the evidence given thereat, if the town board shall determine that it is in the public interest to construct the interconnection or extension and that all property and property owners within the district will be benefited thereby, it may proceed with the work subject to other applicable provisions of this section. When such map, plan and estimate for a county district are submitted, the board of supervisors shall determine the necessity of such interconnection or extension and may cause the same to be accomplished in the manner provided in section two hundred sixty-eight of the county law, subject to other applicable provisions of this section. A copy of the determination of the town board, or of the board of supervisors, signed and certified, shall be duly recorded in the office of the clerk of the county in which the district is located and when so recorded shall be presumptive evidence of the regularity of the proceedings of the town board, or the board of supervisors, as the case may be. Any interested party aggrieved by the determination of the town board, or the board of supervisors, as the case may be, may review the same in the manner set forth in article seventy-eight of the civil practice law and rules provided that application for such review is made within thirty days from the time of

filing the determination in the office of the county clerk.

(b) The expense of constructing and maintaining an interconnection or an extension hereunder shall be assessed and levied upon and collected from the several lots and parcels of land located within the water district in the same manner as the expense of maintaining the existing water system of such district.

(c) No interconnection or extension shall be constructed hereunder either wholly or partially at the expense of a water district which shall have a separate board of water commissioners, unless a majority of such commissioners shall execute and file in the office of the town clerk their consent thereto in writing.

(d) The provisions of article twelve or article twelve-A of the town law, in the case of a town district, or article five-A of the county law, in the case of a county district, in so far as applicable and not inconsistent with the provisions of this section, shall apply to the construction of water district interconnections and extensions authorized and approved as provided in this section.

14. The powers and duties of the state coordinator hereunder shall be deemed to be powers and duties of the state department of health and shall be exercised by the state coordinator subject to the supervision, direction and control of the state commissioner of health.

15. The powers conferred by this section shall be in addition and supplemental to the powers contained in any other law and nothing contained herein shall be construed as limiting any right or power that a municipality now has or may hereafter have pursuant to law.

16. The provisions of this section shall not apply to the city of New York. However, nothing in this section shall be construed as prohibiting or removing the obligation of New York city to furnish or sell water to other municipalities as may be required by the provisions of any other law.

17. If any part, provision or paragraph of this section or the application thereof to any person or circumstances shall be held invalid by any court of competent jurisdiction, the remainder thereof or the

application of such part, provision or paragraph to any other person or circumstances shall not be affected thereby.