§ 1230-e. Water board. 1. A water board, to be known as the "Niagara Falls public water board", may be created by a special act of the state legislature as a body corporate and politic, constituting a corporate municipal instrumentality of the state and having the powers and duties as provided in this title.

2. The governing body of the water board shall consist of a total of five members, to be appointed and to serve as follows: one member shall be appointed by the governor, one member shall be appointed by the temporary president of the senate at the recommendation of the senator or senators representing all or a portion of the city, one member shall be appointed by the speaker of the assembly at the recommendation of the assembly member or members representing all or a portion of the city, one member shall be appointed by the mayor, and one member shall be appointed by the majority vote of the city council. At least three of the five members shall be residents of the city. When a vacancy occurs that reduces the number of members who are city residents to less than three, the appointment to fill that vacancy must be a city resident. Each member shall attend, in each fiscal year, at least seventy-five percent of all meetings of the governing body. Failure by any party to appoint any member shall not invalidate the creation or establishment of the water board and shall result in the creation of a vacancy on the governing body of the water board which may be filled at any time by such party. The member appointed by the governor shall be appointed for a term ending on December thirty-first of the first year following the year in which this title shall have become a law; the member appointed by the temporary president of the senate shall be appointed for a term ending on December thirty-first of the second year following the year in which this title shall have become a law; the member appointed by the speaker of the assembly shall be appointed for a term ending on December thirty-first of the third year following the year in which this title shall have become a law; the member appointed by the mayor shall be appointed for a term ending on December thirty-first of the fourth year following the year in which this title shall have become a law; and the member appointed by the city council shall be appointed for a term ending on December thirty-first of the fifth year following the year in which this title shall have become a law. Subsequent appointments of

members shall be made for a term of three years ending in each case on December thirty-first of the last year of such term. No member shall be a member of the governing body of the authority. All members shall continue to hold office until their successors are appointed and qualify. All members shall hold, at a minimum, a bachelor's degree from an accredited college or university, with a concentration or degree in one of the following areas of study and at least five years of professional experience therein, or without such degree, such member shall have at least ten years of professional experience in one of the following fields: legal, environmental, financial, management, engineering, human resources, or science. Vacancies shall be filled in the manner provided for original appointment. Vacancies, occurring otherwise than by expiration of term of office, shall be filled by appointment for the unexpired terms. Members may be removed from office only for the same reasons and in the same manner as provided by section twenty-eight hundred twenty-seven of this chapter. Any member fulfilling the requirement that at least three members be residents of the city shall forfeit his or her membership on the governing body upon such member's termination of residence in the city, which forfeiture shall create a vacancy. The members of the water board shall receive no compensation for their services but shall be reimbursed for their actual and necessary expenses incurred in connection with the carrying out of the purposes of this title; provided, however, that no member shall be reimbursed for any expense of attending ordinary board meetings or any other expense exceeding one thousand dollars incurred with respect to any individual purpose, unless the governing body at a meeting duly called and held when three members are present shall have authorized such expenditure by such member. The powers of the water board shall be vested in and be exercised by the governing body at a meeting duly called and held where a quorum of three members are present. Any one or more members of the water board may participate in a meeting of such water board by means of a conference telephone or similar communications equipment allowing all persons participating in the meeting to hear or see and hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. No action shall be taken except pursuant to the favorable vote of at least three voting members. All votes must be made in person at a meeting and no vote may

be made by proxy. The governing body may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

3. The officers of the water board shall consist of a chairman, a vice-chairman and a treasurer, who shall be members of the water board, and a secretary, who need not be a member of the water board. Such officers shall be appointed by the governing body and shall serve in such capacities at the pleasure of the governing body. In addition to the secretary, the governing body may appoint and at pleasure remove such additional officers and employees as it may determine necessary or appropriate for the performance of the powers and duties of the water board, and fix and determine their qualifications, duties and compensation, subject to the provisions of the civil service law and the rules of the civil service commission of the city. The governing body may also from time to time contract for expert professional services. The treasurer shall execute a bond, conditioned upon the faithful performance of the duties of his or her office. The amount and sufficiency of such bond shall be approved by the governing body and the premium therefor shall be paid by the water board.

4. Notwithstanding any inconsistent provision of any general, special or local law, ordinance, resolution or charter, no officer, member or employee of the state, the city, any municipality, or any state agency, shall be deemed to have forfeited or shall forfeit his or her office or employment or any benefits provided under the retirement and social security law by reason of his or her acceptance of appointment as a member, officer, agent or employee of the water board, nor shall service as such member, officer, agent or employee be deemed incompatible or in conflict with such office, membership or employment.

5. (a) The mayor shall file on or before December thirty-first of the year following the year in which the special act of the state legislature creating the water board shall have become a law, in the office of the secretary of state, a certificate signed by the mayor setting forth: (i) the name of the water board; (ii) the names of the members appointed by the governor, the temporary president of the

senate, the speaker of the assembly, the mayor, and the city council; and (iii) the effective date of the special act of the state legislature creating the water board. If such certificate is not filed with the secretary of state on or before such date, then the corporate existence of the water board shall thereupon terminate and it shall thereupon be deemed to be and shall be dissolved.

(b) The water board and its corporate existence shall continue until terminated by law, provided, however, that no such law shall take effect so long as the water board shall have contractual duties or obligations outstanding unless adequate provision has been made for the satisfaction thereof. Upon termination of the existence of the water board, all of the rights, obligations and properties of the water board then remaining shall pass to and vest to the city, with the consent of the city, if the water board acquired such property from the city, or to a municipality, with the consent of such municipality, if the water board acquired such property from such municipality, unless otherwise provided in an agreement with the city or municipality and the water board, and except as otherwise may be specified by law.

6. It is hereby determined and declared that the water board and the carrying out of its powers and duties are in all respects for the benefit of the people of the city and the service area and the state for the improvement of their health, welfare and prosperity and that such purposes are public purposes and that the water board is and will be performing an essential governmental function in the exercise of the powers conferred upon it by this title.

7. The water board shall establish and maintain its principal office at which it conducts its business in the city. Notwithstanding any general, special or local law or any charter provision, the city may, and is hereby authorized to lease to the water board such office space as the water board determines to be necessary and appropriate for the needs of the water board, which lease shall be for such consideration and shall contain such terms and conditions as the water board and the city shall determine reasonable and appropriate.

8. The purpose of the act of the legislature establishing the water

board shall be, among other things, to provide for the jurisdiction, control, possession, supervision and use of the system; authorization to make rules and regulations in furtherance of this title; the enforcement of this title, the rules, regulations, permits and orders of the water board in connection with the direct or indirect use of the system facilities by persons within the city and the service area and any other persons for whom the water board provides services including, but not limited to, accepting, treating and disposing of wastewater, industrial waste, and other waste, from whatever source derived; and to enable the water board to comply with all applicable laws of the United States and the state, and the rules, regulations, permits and orders of their regulatory agencies.